

VOIR DIRE

1 Grand Jury decides if there is to be a trial and
2 simply different group of people to decide what
3 the verdict should be. Do you remember that?

4 PROSPECTIVE JUROR: Yes. Never been in
5 the military. No law enforcement relatives. My
6 apartment has been robbed twice over the years.
7 I've been mugged at knifepoint twice over the
8 years.

9 THE COURT: Did you report some or all of
10 them?

11 PROSPECTIVE JUROR: All of them.

12 THE COURT: Anybody arrested, as far as
13 you know?

14 PROSPECTIVE JUROR: No. No civil
15 lawsuits. Given what I heard so far, my
16 experience on Grand Jury with narcotics, I think I
17 might have difficulty with large quantities of
18 drugs, being impartial. Not small amounts.

19 THE COURT: Well, the word "may" is
20 something we should explore, but have to do it
21 relatively quickly. It's a silly question. I'm
22 sure it was perceived as anybody in favor of
23 crime. Everybody is against crime. Everybody would
24 be against violence, against guns, against murder,
25 and some people against drugs, large quantities of

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1 drugs.

2 The point of what happens in this room is
3 to see whether or not a person can be connected to
4 the event. Let's call it a large amount of drugs.
5 Nobody likes that, but nobody wants to convict
6 somebody whose case hasn't been proven.

7 We look for intelligent people who do not
8 have an axe to grind, open minded. Stuff will be
9 presented and you make the decision. Even though
10 you might not like the idea of murder, guns,
11 drugs, rape, whatever the situation, can you do
12 that, or is your feeling exposed to smaller
13 amounts or bigger amounts like in the Grand Jury
14 such that you are uncertain about whether you can
15 decide the case fairly and appropriately?

16 PROSPECTIVE JUROR: Not sure I can be
17 fair with a large quantity of drugs involved.

18 THE COURT: So then you're excused.

19 THE CLERK: Vincente Leon, seat
20 number 14.

21 THE COURT: I try to keep myself out of
22 this. Played a lot of baseball. That's the second
23 strike. The next person who doesn't say something
24 in the process early when your turn comes and
25 winds up being disqualified, I will yell at you.

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1 I understand that you can be injudicious, but your
2 time is being wasted by people who have now left.

3 Mr. Leon.

4 PROSPECTIVE JUROR: I was born in Puerto
5 Rico. I've lived in New York City for 16 years.
6 My relatives in New York City are my wife and son.
7 I am working. I work as a banker. My wife is a
8 psychologist. I have one child, 11 years old.

9 THE COURT: Spoken with that person about
10 drugs?

11 PROSPECTIVE JUROR: No -- oh, yes, I
12 have. Educational background, I have a graduate
13 degree. I have never served on a jury of any
14 type. I have never served in the military. I
15 don't have any relatives employed by any law
16 enforcement agency. I have been a victim of a
17 crime.

18 THE COURT: What happened?

19 PROSPECTIVE JUROR: My wife and I were
20 carjacked.

21 THE COURT: Do you know why?

22 PROSPECTIVE JUROR: Wrong place wrong
23 time.

24 THE COURT: Were you hurt?

25 PROSPECTIVE JUROR: My wife was held at

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1 gunpoint, taunted verbally.

2 THE COURT: How long ago did this event
3 happen?

4 PROSPECTIVE JUROR: Seven, eight years
5 ago.

6 THE COURT: In the city, somewhere else?

7 PROSPECTIVE JUROR: Puerto Rico.

8 THE COURT: Anybody arrested ultimately?

9 PROSPECTIVE JUROR: No.

10 THE COURT: Did you report it?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: Okay. Continue.

13 PROSPECTIVE JUROR: I have been a party
14 of a civil lawsuit.

15 THE COURT: Deposed or not?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Challenged or not?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: Continue.

20 PROSPECTIVE JUROR: I believe I can
21 follow the law as the Court instructs. I live in
22 the Upper East Side.

23 THE COURT: Anything else?

24 PROSPECTIVE JUROR: No.

25 THE COURT: Ms. Gibson.

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1 PROSPECTIVE JUROR: Born on Long Island.
2 Live in New York for 40 years. My daughter and I
3 live in New York. I am not married. I'm working
4 for the city modulate programs. I have a Master's
5 degree in social work. I have one child who
6 is 16. We have talked about drugs. I have never
7 served on the jury. Never served in the military.
8 I have no relatives or friends employed in law. I
9 have no close friends or relatives who have been a
10 victim of a crime. I have never been a party to a
11 lawsuit. I will follow the law, and I live on the
12 Upper East Side.

13 THE COURT: Anything else?

14 PROSPECTIVE JUROR: No.

15 THE COURT: Ms. Gjika.

16 PROSPECTIVE JUROR: I was born in
17 Albania. I'm United States citizen. Been
18 here 15 years. I have approximately 30 relatives
19 in New York City. I am not married. I work as a
20 credit analyst at a bank. I have no children. I
21 have a college degree and presently working on my
22 Master's. I have never served on a jury. Never
23 served in the military. I have a rookie cousin
24 somewhere.

25 THE COURT: A rookie cousin? Is that

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1 somebody under six months old?

2 PROSPECTIVE JUROR: I myself or close
3 relatives not been a victim of a crime or party to
4 any lawsuits. I believe I can follow the law and
5 be impartial. I live on Sutton Place.

6 THE COURT: Ms. Paulson.

7 PROSPECTIVE JUROR: Born in Hawaii. Live
8 in New York for two years. No relatives. Working
9 retail designer or clothing, sourcing and
10 development research.

11 THE COURT: Wonder if you could come up
12 with any new raw materials. Physiology. That
13 probably is not a good idea, no.

14 PROSPECTIVE JUROR: No children. College
15 graduate.

16 THE COURT: Did you graduate in Hawaii?

17 PROSPECTIVE JUROR: No, in Boston.

18 THE COURT: When did you leave Hawaii?

19 PROSPECTIVE JUROR: When I was two.

20 THE COURT: You didn't have a choice.

21 PROSPECTIVE JUROR: I wasn't consulted.

22 Never been on a jury. Never served in the
23 military. No friends or relatives in law
24 enforcement. I have been a victim of a crime. My
25 apartment broken into.

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1 THE COURT: Were you present?

2 PROSPECTIVE JUROR: I wasn't present.

3 THE COURT: Manhattan?

4 PROSPECTIVE JUROR: Boston. Never been a
5 party to a lawsuit. I can follow the law and be
6 fair and impartial. I live on the Upper West Side.

7 THE COURT: Anything else?

8 PROSPECTIVE JUROR: No.

9 THE COURT: Ms. Ward.

10 PROSPECTIVE JUROR: Born in New Jersey.
11 Lived in New York for 20 years. I have one
12 nephew. I'm married, not working.

13 THE COURT: Have you worked?

14 PROSPECTIVE JUROR: No. I have two grown
15 kids. I'm a college graduate. I have never served
16 on a jury. I've never served in the military. I do
17 not have relatives employed by law enforcement
18 agencies. My home was broken into a long time
19 ago.

20 THE COURT: Were you present when that
21 happened?

22 PROSPECTIVE JUROR: I let him in. He
23 said he was coming to fix the roof, and he went --
24 I think it was an inside job, and went into a
25 bedroom and took my jewelry.

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1 THE COURT: You probably could have
2 afforded it, but I chose not to say that.

3 PROSPECTIVE JUROR: I have not been a
4 party to a civil lawsuit.

5 THE COURT: How about an acrimonious
6 lawsuit?

7 PROSPECTIVE JUROR: I can be fair and
8 impartial. I live in the Upper West Side.

9 THE COURT: Anything else?

10 PROSPECTIVE JUROR: No.

11 THE COURT: Mr. Jenkins.

12 PROSPECTIVE JUROR: Born in New York
13 City. I live New York City 46 years. I have 15
14 relatives in New York. I'm single. No children.

15 THE COURT: This poor lady walked all the
16 way over here to tell me I forgot Mr. Akbar.
17 We'll finish with you and go back to Mr. Akbar.

18 PROSPECTIVE JUROR: No children. High
19 school.

20 THE COURT: Are you working now or worked
21 in the past?

22 PROSPECTIVE JUROR: Oh, yeah.

23 THE COURT: What do you do?

24 PROSPECTIVE JUROR: Work in a limo
25 service.

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1 THE COURT: You take the subway, drive a
2 vehicle?

3 PROSPECTIVE JUROR: Take the subway.

4 THE COURT: I used to do that. My first
5 jobs was as a messenger. Fifteen cents is what a
6 token cost. Way to make the money is put the 15
7 cents in your pocket and walk.

8 PROSPECTIVE JUROR: Never served on the
9 military. Never served on a jury. No relative
10 working in law enforcement.

11 THE COURT: You have to speak louder.
12 They're practically falling off their chairs over
13 there.

14 PROSPECTIVE JUROR: No relatives or close
15 friends convicted of a crime. Never been a party
16 to a civil lawsuit. I have been in court.

17 THE COURT: What sort of thing got you
18 into court?

19 PROSPECTIVE JUROR: Misdemeanor.

20 THE COURT: Can you be fair and impartial
21 here?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: What neighborhood do you live
24 in?

25 PROSPECTIVE JUROR: Upper West Side.

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1 THE COURT: Anything else?

2 PROSPECTIVE JUROR: No.

3 THE COURT: I apologize, Mr. Akbar.

4 PROSPECTIVE JUROR: Born in Hempstead,
5 Long Island. Live in New York City for ten years.

6 I have five relatives in the city. I'm not
7 married. I'm unemployed now. I don't have a
8 spouse. No children. I have my go GED and some
9 college experience. I never served on a criminal
10 or civil jury or Grand Jury. I haven't served in
11 the military. I don't have any relatives that are
12 in law enforcement. I don't any relatives or
13 friends that are a victim of a crime. I have never
14 been a party to any kind of lawsuit. I can be
15 fair and impartial.

16 THE COURT: Have you been in school
17 recently?

18 PROSPECTIVE JUROR: No.

19 THE COURT: Not for a couple of years?

20 PROSPECTIVE JUROR: Yeah.

21 THE COURT: What neighborhood do you
22 live in?

23 PROSPECTIVE JUROR: Harlem, within a
24 three-block radius.

25 THE COURT: Three blocks from where we

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1 are talking about?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: Does that bother you?

4 PROSPECTIVE JUROR: It's okay.

5 THE COURT: Nobody you know has been a
6 victim of a crime?

7 PROSPECTIVE JUROR: No.

8 THE COURT: You don't know anybody who's
9 a police officer?

10 PROSPECTIVE JUROR: No.

11 THE COURT: We'll go to Ms. Rojas.

12 PROSPECTIVE JUROR: I was born in Puerto
13 Rico. I lived in New York for 18 years. I have
14 about 20 relatives in the city. Not married.
15 Fashion designer. No spouse. No children. I have
16 a Bachelor's degree. Never served on a civil or
17 Criminal Court. I've never served in the Grand
18 Jury. Never served in the military. I have
19 retired cop cousin, two, and a cop friend.

20 THE COURT: How often do you see those
21 folks?

22 PROSPECTIVE JUROR: Not at all.

23 THE COURT: Do you know whether they ever
24 did drug enforcement? You don't know. Okay,
25 continue.

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1 PROSPECTIVE JUROR: I've been a victim of
2 a crime.

3 THE COURT: What happened to you?

4 PROSPECTIVE JUROR: Domestic violence.

5 THE COURT: Did you call the police?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: Did it get into court or not?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: Did the court take care of it
10 the way you think they should have or not?

11 Continue.

12 PROSPECTIVE JUROR: Never a party to a
13 civil lawsuit. I could be fair and impartial. I
14 live in Harlem.

15 THE COURT: Do you live within three
16 blocks of the area that we're talking about?

17 PROSPECTIVE JUROR: No.

18 THE COURT: Anything else we should know?

19 PROSPECTIVE JUROR: My brother was killed
20 in Puerto Rico. He was into drugs.

21 THE COURT: About how long ago was that?

22 PROSPECTIVE JUROR: Fourteen years ago.

23 THE COURT: Were you living in Puerto
24 Rico or New York at the time?

25 PROSPECTIVE JUROR: New York.

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1 THE COURT: Was anybody arrested for that
2 crime?

3 PROSPECTIVE JUROR: Five years after the
4 fact.

5 THE COURT: Are you satisfied that you
6 can put that aside?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: Sorry you had to tell us, but
9 thank you for telling us.

10 Mr. Keister.

11 PROSPECTIVE JUROR: Born in Colorado.
12 Live in New York for two and a half years. One
13 relative in the city. I'm married. Work as an
14 economist in the financial sector. My spouse is a
15 professor. No children. Graduate degree in
16 economics. Never been on a jury. Served in the
17 Air Force from 1989 to 1992.

18 THE COURT: What was your specialty?

19 PROSPECTIVE JUROR: Communication. No
20 friends or close relatives in law enforcement.
21 Not been a victim of a crime. I have not been a
22 party to any sort of lawsuit. I believe I can be
23 impartial. I live on the Upper West Side.

24 THE COURT: Anything else?

25 PROSPECTIVE JUROR: No.

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1 THE COURT: Ms. O'Connor.

2 PROSPECTIVE JUROR: Born in Flushing, New
3 York. Lived in New York City for 13 years. No
4 relatives who live in New York. I am widowed. I'm
5 retired. I was a director of women's health
6 overseas programs. I have two grown children.
7 When they were adolescents, I instructed them
8 about drugs. I have a Master's degree in public
9 administration. I almost served on a jury. I was
10 selected, I went in, but after the two extra
11 jurors were released, one of the jurors got
12 hysterical because she thought she couldn't serve
13 so they had to have a mistrial. I never served on
14 a Grand Jury. I never served in the military. I
15 have no close friends or relatives employed by law
16 enforcement agency. I have been the victim of a
17 violent crime 33 years ago, I was raped at
18 knifepoint.

19 THE COURT: Somebody you know or did not
20 know?

21 PROSPECTIVE JUROR: A stranger.

22 THE COURT: Anybody arrested?

23 PROSPECTIVE JUROR: Nobody ever arrested.

24 THE COURT: Did you report it?

25 PROSPECTIVE JUROR: Of course. I've

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1 never been a party to a civil lawsuit. I believe
2 that -- I am certain that I can be fair and
3 impartial. I live on the Upper West Side.

4 THE COURT: Anything else?

5 PROSPECTIVE JUROR: No.

6 THE COURT: Did they arrest anybody?

7 PROSPECTIVE JUROR: No.

8 THE COURT: Anyone among you ever
9 convicted of or accused of a crime?

10 Then we'll go to family member,
11 civilians, spouses, domestic person, people with
12 whom you have a some time or often intimate
13 relationship, parents, children, sisters,
14 arrested, accused of, victim of a crime?

15 Mr. Sargent.

16 PROSPECTIVE JUROR: My brother has had a
17 couple, twice.

18 THE COURT: Did he get a jail sentence on
19 any of them?

20 PROSPECTIVE JUROR: No.

21 THE COURT: In New York or some other
22 jurisdiction?

23 PROSPECTIVE JUROR: New Jersey.

24 THE COURT: Mr. Jenkins.

25 PROSPECTIVE JUROR: My sister.

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1 THE COURT: What happened?

2 PROSPECTIVE JUROR: She was arrested
3 three times for crack.

4 THE COURT: Did she -- was she put in a
5 drug program, get a jail sentence or sometimes one
6 and sometimes the other or do you know?

7 PROSPECTIVE JUROR: She got a jail
8 sentence.

9 THE COURT: Do you see her still? Is she
10 still alive?

11 PROSPECTIVE JUROR: She passed away.

12 THE COURT: Somebody else? Mr. Higgins.

13 PROSPECTIVE JUROR: Uncle arrested for
14 selling drugs, convicted.

15 THE COURT: By a jury or did he plead
16 guilty?

17 PROSPECTIVE JUROR: I believe he plead
18 guilty.

19 THE COURT: Do you know what sentence he
20 got? Was it a jail sentence?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: Did you ever visit him?

23 PROSPECTIVE JUROR: No.

24 THE COURT: Still in jail?

25 PROSPECTIVE JUROR: No.

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1 THE COURT: Somebody else? Yes,
2 Mr. Akbar.

3 PROSPECTIVE JUROR: My brother was
4 arrested for possession.

5 THE COURT: How did it end or do you
6 know?

7 PROSPECTIVE JUROR: Six-month sentence in
8 Riker's Island.

9 THE COURT: Did you visit him there?

10 PROSPECTIVE JUROR: Yeah, we visited him.

11 THE COURT: Couple of times or once?

12 PROSPECTIVE JUROR: Couple of times a
13 week.

14 THE COURT: Somebody else?

15 Anybody know anyone who is now or in the
16 past prosecuted by the Manhattan district
17 attorney's office?

18 Mr. Berland goes first again. He has the
19 same amount of time -- no, a little less time.

20 Go ahead.

21 MR. BERLAND: Good afternoon. I'm going
22 to jump right in. Hopefully we can get you out
23 quickly.

24 Ms. Steinberg, you said you were held up
25 at gunpoint. Was that in California or New York?

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1 PROSPECTIVE JUROR: California.

2 MR. BERLAND: I believe you said you
3 reported the crime but no one was arrested?

4 PROSPECTIVE JUROR: That's correct.

5 THE COURT: Speak a little louder.
6 Apparently, school is out somewhere.

7 MR. BERLAND: We're not talking about the
8 New York City Police Department. How do you feel
9 the police treated the investigation?

10 PROSPECTIVE JUROR: A little
11 disappointed. We were followed home off the
12 freeway. We called the police immediately. And
13 came and said people are followed off the freeway,
14 held at gunpoint, here are the books.

15 MR. BERLAND: You are disappointed in
16 that case?

17 THE COURT: They basically left it up to
18 you to solve your own crime?

19 PROSPECTIVE JUROR: Yes.

20 MR. BERLAND: That was California. We
21 are in New York. That disappointment at all factor
22 into your ability to listen to NYPD with an open
23 and fair mind?

24 PROSPECTIVE JUROR: I'm not sure.

25 MR. BERLAND: I will move on to

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1 Ms. August. You were a victim of a burglary; is
2 that right?

3 PROSPECTIVE JUROR: Yeah.

4 MR. BERLAND: Again, you reported that
5 and no arrests were made?

6 PROSPECTIVE JUROR: That's correct.

7 MR. BERLAND: This was in New York?

8 PROSPECTIVE JUROR: Yes.

9 MR. BERLAND: How do you feel the police
10 handled the investigation in your case?

11 PROSPECTIVE JUROR: Ultimately, I found
12 it disappointing. If I maintained pressure in
13 questioning, I expect I would have gotten more
14 response. I didn't get --

15 MR. BERLAND: It has been made clear that
16 there are 40,000 police officers in New York.

17 PROSPECTIVE JUROR: Absolutely.

18 MR. BERLAND: You can separate that
19 situation on this case and listen to police
20 officers with an open mind?

21 PROSPECTIVE JUROR: I think so. I think
22 I can listen with an open mind.

23 MR. BERLAND: We need you to be able to
24 say you know you can. That's important.

25 PROSPECTIVE JUROR: I know I can be

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1 impartial.

2 MR. BERLAND: Ms. Woodrow, what kind of
3 music on your radio station?

4 PROSPECTIVE JUROR: Fairly eclectic.

5 THE COURT: I guess that's beyond New
6 Wave.

7 PROSPECTIVE JUROR: Pretty much anything
8 else.

9 MR. BERLAND: Mr. Wall, you were a victim
10 of a carjacking at 75 and Park. No arrest?

11 PROSPECTIVE JUROR: No.

12 MR. BERLAND: Do you feel the police
13 handled it?

14 PROSPECTIVE JUROR: Yes.

15 MR. BERLAND: Do you understand that
16 different police officers are testifying here?

17 PROSPECTIVE JUROR: Yes.

18 MR. BERLAND: Mr. Higgins, your uncle was
19 arrested for possession or sale?

20 PROSPECTIVE JUROR: Sale.

21 MR. BERLAND: Are you close to your
22 uncle?

23 PROSPECTIVE JUROR: Sort of.

24 MR. BERLAND: Will the fact that he was
25 arrested and convicted affect you in this case

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1 from being fair and impartial?

2 PROSPECTIVE JUROR: No.

3 MR. BERLAND: Are you sure?

4 PROSPECTIVE JUROR: I'm sure.

5 MR. BERLAND: Mr. Sargent, any ill will
6 towards the police in your brother's beating that
7 nobody was arrested?

8 PROSPECTIVE JUROR: Again, I would I'm
9 friends with cops, and things happen. Is it great
10 that they didn't catch him? No.

11 MR. BERLAND: Any ill will you might have
12 that will spill over into this case?

13 PROSPECTIVE JUROR: No. It's years ago,
14 Upstate New York.

15 THE COURT: You can give the defendant a
16 fair trial and listen to with an open mind to any
17 witness that takes that witness stand?

18 PROSPECTIVE JUROR: Yea.

19 MR. BERLAND: You are hesitating a little
20 bit. We need you to be certain.

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: We do not want answers
23 without thought, either. Sometimes that requires
24 a little delay between processing and answering.

25 MR. BERLAND: Ms. Paulson, similar

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1 question. Your apartment was broken into in
2 Massachusetts. Not talking about New York police
3 department. How do you feel the police there
4 handled the investigation?

5 PROSPECTIVE JUROR: Not well.

6 MR. BERLAND: Mr. Akbar, how are you?
7 You said that you are currently unemployed. How
8 long have you been unemployed?

9 PROSPECTIVE JUROR: March 3rd of this
10 year.

11 MR. BERLAND: Where were you working
12 before that, prior to March 3rd?

13 PROSPECTIVE JUROR: With a security
14 company.

15 MR. BERLAND: Your brother was also
16 arrested?

17 PROSPECTIVE JUROR: Yes.

18 MR. BERLAND: That was for a narcotics
19 case?

20 PROSPECTIVE JUROR: Possession.

21 MR. BERLAND: Would you be able to
22 separate that case from the instant case?

23 PROSPECTIVE JUROR: Yes.

24 MR. BERLAND: It will not in any way
25 affect your ability to be fair and impartial?

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1 PROSPECTIVE JUROR: No.

2 MR. BERLAND: You all heard now numerous
3 times that the defendant has been charged with
4 possessing over half a kilogram of cocaine, large
5 quantities of cocaine. He's also charged with
6 possessing the cocaine with intent to sell it.

7 Anyone here who, for any reason
8 whatsoever, has a general problem with the drug
9 laws of New York, who says, you know, I don't
10 think position of cocaine or any narcotic drug
11 should be illegal? Anyone at all?

12 Before I sit down, I said this this
13 morning. Is there anything that you think that
14 this questionnaire doesn't cover, the Judge hasn't
15 asked that we should know about here?

16 Thank you for your time.

17 THE COURT: Mr. Keith.

18 MR. KEITH: Hello again everyone. Again,
19 my name is Arnold Keith and I represent
20 Mr. Edward Green. There's been quite a few
21 moments where there's been laughter. I know I've
22 laughed quite a number of times today and seen a
23 number of you laugh.

24 The charges that Mr. Green is being
25 accused of are very serious. I hope that everyone

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1 will take and analyze and evaluate the testimony
2 and take this very seriously if you are selected
3 to serve on the jury. Can you all promise me that
4 you will do that?

5 I'm hoping that there could be some more
6 light moments, easy moments where we could laugh.
7 Really, the charges here are very serious. Even
8 though I think the issue is relatively simple, it
9 would require some analysis and some attention to
10 the evidence that you will hear in this case. I'm
11 asking you, if you are selected, to please pay
12 careful attention to what you hear and take this
13 very seriously. Can you all promise me that?

14 Ms. Wigler, you live on the Upper West
15 Side; is that correct?

16 PROSPECTIVE JUROR: Uh-huh.

17 MR. BERLAND: You had a friend that he or
18 she passed away from a cocaine overdose; is that
19 correct?

20 PROSPECTIVE JUROR: Yes.

21 MR. BERLAND: And in this case, Mr. Green
22 is accused of the possession of a fairly large
23 amount of cocaine. The evidence will come
24 primarily from police officers. Knowing that, can
25 you be a fair juror in this case?

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1 PROSPECTIVE JUROR: You know, I've never
2 done this before. So I am trying to speak from my
3 heart and be fair, and I do believe in this
4 process, the fact that my friend was killed from
5 this substance -- the substance didn't kill him,
6 he chose that. I am trying to keep my mind as open
7 as I humanly can and I believe I can be fair. He
8 was very, very dear to me, and I hear -- I can't
9 see that being a problem, but I thought it was
10 worth mentioning because of how close I was to
11 this person and how this substance and my friend's
12 use of the substance destroyed so many lives. I
13 don't know if that is helpful. I'm trying to be
14 honest.

15 MR. KEITH: For everyone, just let it
16 out. We're not here to judge you. Mr. Green is
17 accused and I'm trying to give him a fair trial.

18 PROSPECTIVE JUROR: I want the exact same
19 thing.

20 MR. KEITH: I have another question I
21 have to ask you. Your husband is a rabbi. Take a
22 look at Mr. Green. He's wearing a keffiyeh, and
23 that may suggest certain things. Do you think that
24 might be a problem?

25 PROSPECTIVE JUROR: I think the fact that

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1 I work at MTV and my husband is a rabbi evens out
2 my husband's rabbiness.

3 MR. KEITH: Ms. Steinberger, again, you
4 had a friend who also met an untimely death. I
5 would imagine due to cocaine abuse?

6 PROSPECTIVE JUROR: She was severely
7 impaired thereafter.

8 MR. KEITH: Sorry. I have my notes
9 wrong. In any event, she's ill. Will that fact
10 prevent you from being a juror in this case?

11 PROSPECTIVE JUROR: You know, I don't
12 think so, but I don't know.

13 MR. KEITH: You're going to hear
14 testimony from police officers and in the end, you
15 will be asked to evaluate the testimony, and then
16 the Judge will instruct you on the law. Actually,
17 it will happen the other way around. The Judge
18 will instruct you on the law and then you will be
19 asked to evaluate the testimony and apply it to
20 the law. If I'm understanding you correctly,
21 you're not really sure --

22 PROSPECTIVE JUROR: It's sometimes
23 difficult to separate what's happened to you
24 personally.

25 MR. KEITH: That's honest and straight.

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1 THE COURT: How do you think that will
2 play out, to use a bad phrase, in this situation?
3 Sometimes you can't separate objectivity from
4 personal involvement? I understand that you've
5 never done it before. How does that factor as you
6 know yourself, how do you anticipate that will
7 affect your ability to be an appropriate juror?

8 PROSPECTIVE JUROR: I think it may be
9 difficult.

10 THE COURT: Nobody says this is an easy
11 process. When you say "it may be difficult," does
12 that mean a difficulty you can overcome or a
13 difficulty that you are fearful that you will be
14 unable to overcome?

15 PROSPECTIVE JUROR: A difficulty I may be
16 fearful.

17 THE COURT: Thank you. You're excused.

18 MR. KEITH: Mr. Higgins, you have friends
19 that are police officers, Bronx Task Force and
20 officers that are involved in precincts that are
21 close to the area where this incident happened.
22 You know that better than I. Can you give
23 Mr. Green a fair trial knowing that you will hear
24 testimony from other police officers from that
25 area?

VOIR DIRE

1 PROSPECTIVE JUROR: If I don't know the
2 officers, yes.

3 THE COURT: You don't know them. We'll
4 make sure of that right now.

5 MR. BERLAND: Detective Alfred Hernandez
6 and Anthony Romero.

7 MR. KEITH: Those names don't ring a
8 bell?

9 PROSPECTIVE JUROR: No.

10 MR. KEITH: Mr. Higgins, what I've heard
11 is if you had known the officers, your inclination
12 would be to accept what they say probably to the
13 detriment of Mr. Green?

14 PROSPECTIVE JUROR: Yes.

15 MR. KEITH: Do you agree with me that
16 there is a huge police force, approximately 40,000
17 police officers, there will be different types of
18 police officers, correct?

19 PROSPECTIVE JUROR: Yes.

20 MR. KEITH: And do you think you can be
21 fair to Mr. Green and evaluate what you hear in
22 this courtroom, despite your friendship with other
23 police officers?

24 PROSPECTIVE JUROR: Like I said, if I
25 don't know, I don't care.

VOIR DIRE

1 MR. KEITH: Mr. Sargent, you have a
2 friend who is a police officer in a small town.
3 That shouldn't affect you in this case?

4 PROSPECTIVE JUROR: No.

5 MR. KEITH: You will give Mr. Green a
6 fair trial?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: Few more minutes.

9 MR. KEITH: A number of you stated that
10 you believe you can follow the law. I know that
11 may be a figure of speech, but I want you to
12 promise me that if you are selected, that you will
13 unequivocally follow the legal instructions that
14 Justice McLaughlin gives you. Can each of you
15 promise me that if you are selected, whatever
16 preconceptions you may have about the law,
17 whatever you think is right or wrong, try to push
18 that aside and follow the instructions that he
19 gives you with regard to the definition of
20 possession, that's dominion and control? Those
21 are the issues in the case. I want you to follow
22 the legal definitions that he gives you despite
23 what you may think. Can you do that?

24 Is it Mr. Rojas? No. What's your name?

25 PROSPECTIVE JUROR: Mr. Leon.

VOIR DIRE

1 MR. KEITH: Mr. Leon, I didn't you see
2 you nod. Do you have a problem with that concept?

3 PROSPECTIVE JUROR: No.

4 MR. KEITH: You will follow the Judge's
5 instructions on the law?

6 PROSPECTIVE JUROR: Yes.

7 MR. KEITH: Anybody has any reservation
8 about that? Mr. Keister, you were one of the
9 people that said you believe you could be
10 impartial. Do you promise me that you will?

11 PROSPECTIVE JUROR: Yes.

12 MR. KEITH: Mr. Davar, you indicated that
13 you do believe you will follow the law, and after
14 hearing my gibberish, can you promise me that you
15 will?

16 PROSPECTIVE JUROR: Yes.

17 MR. KEITH: To the many of you that have
18 been victims of crime or know people who have been
19 victims of criminal activity, can you all promise
20 me that that incident, hopefully, will not have an
21 effect on the decision you make in this case?

22 This is a very narrow possession issue. You're
23 not going to try to get revenge on Mr. Green? Can
24 you promise me that? Can everyone give me a
25 little nod?

VOIR DIRE

1 THE COURT: Or big nod? Big nods are
2 good also. Anything else?

3 MR. KEITH: No, Your Honor.

4 THE COURT: Please step out. We'll have
5 you back shortly. Everybody step out.

6 (Prospective jurors exit.)

7 THE COURT: First six, any cause by the
8 People?

9 MR. BERLAND: Just to jump to number
10 four. I think she said she was the victim of a
11 burglary and not happy with the way the police
12 handled the situation and wasn't sure she could
13 keep an open mind. Pretty similar to the response
14 given by Ms. Steinberg.

15 MR. KEITH: Cause challenge.

16 MR. BERLAND: Cause for seat number four.

17 THE COURT: Anything you want to say?

18 MR. KEITH: No.

19 THE COURT: Anybody's silent promise that
20 we'll do this round? She's excused for cause.

21 Any other cause challenges on the first
22 six seats?

23 MR. BERLAND: No.

24 THE COURT: Cause challenges by the
25 defense.

~~VOIR DIRE~~

1 MR. KEITH: No, Your Honor.

2 THE COURT: Peremptories by the People,
3 if any.

4 MR. BERLAND: Just Cabrera, seat one.

5 THE COURT: Mr. Keith, Mr. Green ask.

6 MR. KEITH: Your Honor, the defense
7 exercises challenges as to Ms. Steinberg,
8 Ms. Wigler and Ms. --

9 THE COURT: I know you don't want Wigler.
10 And you do or don't want Wardrop?

11 MR. KEITH: Do not.

12 THE COURT: But you do want Davar?

13 MR. KEITH: Yes.

14 THE COURT: Steinberg doesn't exist.

15 MR. KEITH: Right, we caused her out
16 already.

17 THE COURT: Davar becomes juror eight.

18 Next four, any cause by the People?

19 MR. BERLAND: Number seven for cause. I
20 really had -- language difficulties.

21 THE COURT: What did she have to say?

22 MR. BERLAND: Had a lot of trouble
23 understanding her.

24 THE COURT: Oh, the -- yeah, yeah, yeah.

25 Bye-bye. That would be granted.

VOIR DIRE

1 Any cause by the defense on the remaining
2 three of that set of four?

3 MR. KEITH: Well, no.

4 THE COURT: People's position,
5 peremptorily.

6 MR. BERLAND: Just number nine,
7 Mr. Akbar.

8 THE COURT: Defense, what's your position
9 on Wah and Ward?

10 MR. KEITH: Your Honor, we challenge
11 juror number eight, Mr. Wah. And Mr. Akbar will
12 be juror number nine. Are we deciding on Wolffson?

13 THE COURT: I have made my decision. What
14 is your decision? Yes, Ward is to be the
15 concluding person in this round. When you say
16 "have we made a decision," some of you have. You
17 are excusing her?

18 MR. KEITH: Yes.

19 THE COURT: We seem to be stuck at eight.

20 Next four, any cause by the People?

21 MR. BERLAND: No.

22 MR. KEITH: Was Akbar challenged?

23 MR. BERLAND: Yes.

24 MR. KEITH: How many challenges do I have
25 left?

VOIR DIRE

1 THE COURT: Eight. On the next four, any
2 cause by the People?

3 MR. BERLAND: No cause.

4 THE COURT: Any cause by the defense?

5 MR. KEITH: None for cause.

6 THE COURT: The People's position
7 peremptorily?

8 MR. BERLAND: Number 13, Gibson.

9 THE COURT: What's the defense' position
10 on Paulson and Leon?

11 MR. KEITH: Ms. Paulson is juror number
12 nine. And we eliminate.

13 THE COURT: What do you mean by
14 "eliminate"?

15 MR. KEITH: Challenge. We challenge
16 Mr. Leon.

17 THE COURT: On the next three, any cause
18 by the People?

19 MR. BERLAND: No.

20 THE COURT: Any cause by the defense.

21 MR. KEITH: None for cause.

22 THE COURT: People's position
23 peremptorily?

24 MR. BERLAND: 15, Sargent and 17, Rojas.

25 THE COURT: What's your position on

VOIR DIRE

1 Mr. Higgins?

2 MR. KEITH: We challenge Mr. Higgins.

3 THE COURT: On the next three. This
4 doesn't boat well. Any cause by the People?

5 MR. BERLAND: No.

6 THE COURT: Cause by the defense.

7 Jenkins, Keister and O'Connor.

8 MR. KEITH: No cause, Your Honor.

9 THE COURT: People's position
10 peremptorily.

11 MR. KEITH: Just number 18.

12 THE COURT: Peremptories with respect to
13 Keister and O'Connor.

14 MR. KEITH: Keister will be able to sit
15 through us. Juror number ten. Ms. O'Connor we
16 challenge.

17 THE COURT: So we have ten. Bring in the
18 folks and we get to do this again.

19 COURT OFFICER: Panel entering.

20 THE CLERK: Following jurors are to
21 remain seated. If I do not call your name, report
22 back to the room 1517.

23 Ushtavaity Davar, Shannon Paulson an
24 Donald Keister. If you heard your name remain
25 seated. If not, you are excused.

VOIR DIRE

1 Are the remaining jurors satisfactory to
2 the People?

3 MR. BERLAND: Yes.

4 THE CLERK: To the defense?

5 MR. KEITH: Absolutely.

6 THE COURT: Stand up and take the oath.

7 THE CLERK: Raise your right hand.

8 (Jurors sworn.)

9 JURORS: Yes.

10 THE COURT: You heard me say to the first
11 group that we'd start at 9:45. To you, I'm going
12 to say we'll start at 10:30. Not just when you
13 have to be here, but that we try to treat people
14 as adults. I didn't tell you to come in at 9:45.
15 Be here at 10:30 and we'll have the rest of the
16 jury, because we'll spend more time today and more
17 time tomorrow. Go with him. See you about 10:30
18 tomorrow.

19 Fill the box with 15 people.

20 THE CLERK: Harold Sullivan, number one.
21 Elijha Smalls, seat number two. Richard Brea, seat
22 number three. Iowa Wachtel, seat number four.
23 Fabian Leglet, seat number five. Wendy Wolffson,
24 seat number six. David Bienenstock, seat number
25 seven. Daniel Lavecchia number eight. Sydney

VOIR DIRE

1 Moskowitz, seat number nine. Christopher Theokas,
2 seat number ten. Stuart Friedman, seat number 11.
3 David /KHUPL, seat number 12. Katelyn Moses, seat
4 number 13. Louis Bernstein, seat number 14.
5 Raymond Gandol, seat number 15. Saralee
6 Smithwick, seat number 16.

7 THE COURT: I implore you that if there
8 is a problem, mention it right away.

9 Mr. Sullivan.

10 PROSPECTIVE JUROR: There is a problem. I
11 am political science chair at John Jay College of
12 Criminal Justice. I have fairly strong views
13 about the New York drug laws.

14 THE COURT: The New York drug laws. The
15 revised, recently revised?

16 PROSPECTIVE JUROR: I don't think you
17 want me to get into details.

18 THE COURT: True. So you're excused.
19 Have a nice day.

20 Fill seat number one.

21 THE CLERK: Linda Hirsh, seat number one.

22 THE COURT: Go ahead, Ms. Hirsh.

23 PROSPECTIVE JUROR: I live in New York.
24 Lived here all my life. No relatives in New York
25 City. I am single. I'm working. I work as an

VOIR DIRE

1 office worker.

2 THE COURT: How long have you been at
3 that place?

4 PROSPECTIVE JUROR: Twenty-six years.

5 THE COURT: Continue.

6 PROSPECTIVE JUROR: I have no children
7 I'm a college graduate. I have served on a civil
8 and criminal jury.

9 THE COURT: What was the charge, not the
10 verdict in the criminal case?

11 PROSPECTIVE JUROR: One was a drug case
12 and it was solved out of court.

13 THE COURT: You sat on one other criminal
14 case?

15 PROSPECTIVE JUROR: One criminal, one
16 civil.

17 THE COURT: Continue.

18 PROSPECTIVE JUROR: I never served on a
19 Grand Jury. Never been in the military. I don't
20 have any relatives employed by law enforcement
21 agency. I have been the victim of a crime. I was
22 mugged.

23 THE COURT: Were you hurt?

24 PROSPECTIVE JUROR: No.

25 THE COURT: Did you report it to the

VOIR DIRE

1 police?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: Was anybody arrested?

4 PROSPECTIVE JUROR: No.

5 THE COURT: Continue.

6 PROSPECTIVE JUROR: I haven't been a
7 party to a civil lawsuit. Yes, I would be fair
8 and impartial. I live in Inwood.

9 THE COURT: Anything else?

10 PROSPECTIVE JUROR: No.

11 THE COURT: Mr. Smalls.

12 PROSPECTIVE JUROR: Born in Harlem
13 Hospital. Lived in New York City all my life, 36
14 years. I have, maybe, 20 relatives, 25 relatives
15 in New York City. Not married, but a spouse for 15
16 years. I'm work working as a facilities
17 coordinator, a super.

18 THE COURT: Residence?

19 PROSPECTIVE JUROR: Residential building.
20 I do have three stepchildren, 21, 19, and 15.

21 THE COURT: Do you speak to them about
22 drugs?

23 PROSPECTIVE JUROR: Yes, sir, but they
24 are in college. Some college. I haven't served
25 on any jury whatsoever. I have not been in the

~~VOIR DIRE~~

1 military. No friends in the police department.
2 No, I have no friends who have been a victim of a
3 crime. No civil lawsuits. Yes, I could be fair
4 and impartial. I live in a section in Manhattan.
5 My spouse works for a lawyer.

6 THE COURT: Thank you.

7 Mr. Brea.

8 PROSPECTIVE JUROR: Born in New York.
9 I've been here for 26 years. About 15 to 20
10 relatives live in New York City. Not married.
11 Currently work at a law firm as a litigation
12 analyst. I assist lawyers with collections,
13 assist them in court as well.

14 THE COURT: How long have you been doing
15 that?

16 PROSPECTIVE JUROR: Three years.

17 THE COURT: Continue.

18 PROSPECTIVE JUROR: I have no children.
19 Educational background, college degree. I served
20 once in civil court.

21 THE COURT: Were you asked to decide it
22 or was it settled?

23 PROSPECTIVE JUROR: Asked to decide.

24 THE COURT: The rules are different in
25 criminal.

VOIR DIRE

1 PROSPECTIVE JUROR: I have not served in
2 the Grand Jury. Not been in the military. I do
3 have friends who are police and correction
4 officers.

5 THE COURT: The police officer, what does
6 he or she do?

7 PROSPECTIVE JUROR: Patrolling the
8 streets.

9 THE COURT: How long?

10 PROSPECTIVE JUROR: Two years.

11 THE COURT: Do you know anybody who
12 specifically deals with drug enforcement?

13 PROSPECTIVE JUROR: No. I have not had
14 any relatives or friends a victim of a crime.
15 Never been in a civil lawsuit. Yes, I would be
16 fair and impartial. Live in Washington Heights.

17 THE COURT: Anything else?

18 PROSPECTIVE JUROR: No.

19 THE COURT: Mr. Wachtel.

20 PROSPECTIVE JUROR: I'm retired and I do
21 volunteer work for an organization called Getting
22 Out and Staying Out, and I advise and counsel
23 young men at Riker's Island and who have recently
24 gotten out and try career counseling.

25 THE COURT: How do you think you are able

VOIR DIRE

1 to do this?

2 PROSPECTIVE JUROR: I'm eminently able to
3 do this. I have had previous experience on a
4 criminal jury. It was a drug-related case. The
5 accused was and maybe still is a chemist who was
6 accused of being part of a drug deal outside of
7 New York, but the New York City Police Department
8 was involved, the Boston Police Department and the
9 Federal Drug Enforcement.

10 I was born in New York except for a
11 period of four years when I lived in Long Island,
12 I've been a resident of New York for 74 years. I
13 have two children living in New York, two
14 grandchildren living in New York. I'm married and
15 I'm retired.

16 THE COURT: What did you do when you were
17 working?

18 PROSPECTIVE JUROR: I was a corporate
19 officer for a national exhibit company that did
20 exhibits and displays. After that, I opened a
21 small chain of video rental stores. My spouse is
22 self-employed at a women's clothing design. I'm
23 college educated. I've never served in the
24 military. As I said, I've been on both criminal
25 and never been on a Grand Jury, and I had an uncle

VOIR DIRE

1 who was retired from the New York City Police
2 Department and since, deceased. I've been the
3 victim of burglaries in New York. No one was ever
4 apprehended. Yes, I would be able to follow the
5 Court's instructions based on what I heard so far
6 and my life experience. I live on the East Side
7 of Manhattan, in the Sutton area.

8 THE COURT: Anything else we should know?

9 PROSPECTIVE JUROR: That's about it.
10 That's my life story.

11 THE COURT: Ms. Leglet.

12 PROSPECTIVE JUROR: I was born in France.
13 I been living in New York for over ten years
14 and 15 years outside of New York and 15 years ago
15 again here. I live with my husband and two
16 children in New York. I'm married. I'm not
17 working for the moment.

18 THE COURT: What kind of work do you do?

19 PROSPECTIVE JUROR: I'm a gemologist. I
20 serve once on a civil, I think, I don't remember,
21 but the case was settled before we went to trial.
22 No Grand Jury. I don't have any friend in law
23 enforcement. No victim. I have never been party
24 to a lawsuit.

25 THE COURT: You can follow the law here?

VOIR DIRE

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: And be fair?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: That's all that we ask. What
5 neighborhood do you live in?

6 PROSPECTIVE JUROR: Upper East Side.

7 THE COURT: Ms. Wolffson.

8 PROSPECTIVE JUROR: Born in New York City
9 and living here for the past 18 years. One
10 relative here as well. I'm not married. I'm
11 recently retired. I was a teacher, and yes, I
12 spoke to my teenage students about drugs. I'm not
13 married. I don't have any children. I have a
14 Master's in special education. I haven't served on
15 a civil jury, but I served on criminal jury, and
16 the case was about drugs.

17 THE COURT: You decided it?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: Did anybody speak to you
20 afterwards?

21 PROSPECTIVE JUROR: No. I haven't been
22 on the Grand Jury. I haven't served in the
23 military. Nobody I know is employed by a law
24 enforcement agency. I have been a victim of a
25 couple of burglaries to my old apartment in

VOIR DIRE

1 Yonkers. My cousin was also robbed. A friend of
2 mine was held up at gunpoint, but everything was
3 okay, fortunately. I've never been involved in a
4 lawsuit. I certainly could follow the law. I live
5 in Hells Kitchen.

6 THE COURT: Anything else we should know?

7 PROSPECTIVE JUROR: No.

8 THE COURT: Next, please.

9 PROSPECTIVE JUROR: Born in Rahway, New
10 Jersey. Lived in New York for six years. I have 2
11 second cousins who live in New York. I am not
12 married. I'm a journalist.

13 THE COURT: What does that mean, what
14 sort of publication?

15 PROSPECTIVE JUROR: National magazine.

16 THE COURT: What field or two or three
17 most common subjects matters do you write about?

18 PROSPECTIVE JUROR: Canvass advocacy.

19 THE COURT: How do you feel about
20 cocaine?

21 PROSPECTIVE JUROR: The laws?

22 THE COURT: No, the spelling of it.

23 PROSPECTIVE JUROR: I think it's a
24 dangerous substance, but I think some of the laws
25 are problematic.

VOIR DIRE

1 THE COURT: Can you follow whatever the
2 law turns out to be?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: Continue.

5 PROSPECTIVE JUROR: No children. I have
6 a college degree. I never served on a jury. I
7 have never been in the military. I don't have any
8 friends in law enforcement. I've never been the
9 victim of a crime. I have never been involved in
10 a civil lawsuit. I can follow the law, and I live
11 in Manhattan.

12 THE COURT: Anything else?

13 PROSPECTIVE JUROR: No.

14 THE COURT: Mr. Lavecchia.

15 PROSPECTIVE JUROR: Seven years ago, 650
16 of my employees, colleagues and friends were
17 murdered this week on September 11th.

18 THE COURT: Can you focus on this case or
19 not?

20 PROSPECTIVE JUROR: Not a chance.

21 THE COURT: You're excused.

22 Fill seat number eight.

23 THE CLERK: John Shafa, seat number
24 eight.

25 THE COURT: Go ahead, sir.

VOIR DIRE

1 PROSPECTIVE JUROR: Born in Taiwan. I've
2 been living in New York for about three years. I
3 have one relative in the city. Not married. I
4 work in -- I filled in at JP Morgan Chase. Not
5 married. No children. I have a college degree.
6 I've served on a civil jury. Never served in the
7 Grand Jury. I haven't served in the military. I
8 have a friend in law enforcement?

9 THE COURT: What does that person do?

10 PROSPECTIVE JUROR: He is in toxicology,
11 also. I have a relative who is a victim of a
12 crime. My aunt was mugged about 20 years ago and
13 she had a broken arm, but I don't think anybody
14 was apprehended. I'm not sure -- I have been in a
15 car accident and there was a lawsuit that came out
16 of it. I can be fair and impartial. I live on
17 the Lower East Side.

18 THE COURT: Ms. Smithwick.

19 PROSPECTIVE JUROR: I was born in
20 Charleston, South Carolina. I lived in New York
21 for 29 years. I'm the only one in my family here.
22 Divorced. Working.

23 THE COURT: Doing what?

24 PROSPECTIVE JUROR: Wholesale
25 accessories. I have no children. College

VOIR DIRE

1 graduate. I have never served on a jury or grand
2 or criminal. I have never served on the military.
3 I have no friends in the FBI or law enforcement.
4 There was an armed robbery in my office in '94.

5 THE COURT: Were you there?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: Did you see the guns?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: Pointed at you?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: Interviewed by the police?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: Anybody during the robbery
14 hurt?

15 PROSPECTIVE JUROR: Minor.

16 THE COURT: Continue.

17 PROSPECTIVE JUROR: I have never been a
18 party of a civil lawsuit. I think I could judge
19 the law impartially.

20 THE COURT: When you say you think, is
21 that a close call or just phraseology?

22 PROSPECTIVE JUROR: Just phraseology.

23 THE COURT: Anything else?

24 PROSPECTIVE JUROR: I live on the Lower
25 East Side.

VOIR DIRE

1 THE COURT: Anything else?

2 PROSPECTIVE JUROR: No.

3 PROSPECTIVE JUROR: I was born in Sicily.

4 Live in New York City 15 years. No relatives in
5 New York. I'm working for Albert Einstein College
6 of medicine, Shubert University. I have no
7 children. I'm college graduate. Never in a civil
8 or criminal Grand Jury. Never been in the
9 military. No family or relatives employed by a
10 law enforcement agency. No close relatives or
11 friends victim of a crime. I haven't been in a
12 civil lawsuit. I can be fair and impartial. I
13 live in midtown.

14 THE COURT: Is there anything else we
15 should know?

16 PROSPECTIVE JUROR: No.

17 THE COURT: Mr. Bernstein.

18 PROSPECTIVE JUROR: Born in Glen Cove,
19 Nassau County. Lived in New York City for a
20 little over 32 years. Other than my immediate
21 family, no other relatives in New York City. I'm
22 married. I'm retired from the position of
23 in-house lawyer at a large pharmaceutical company
24 for 30 years and in the interim, CEO of a small
25 company. I am at the moment not working. Looking

VOIR DIRE

1 to do that. My spouse is a professor and program
2 executive director. Three children, 22, 20 and
3 16, and have had conversations about drugs. I
4 have a law degree. I have served on criminal jury
5 that went to verdict about possession. It was
6 possession with intent to distribute a certain
7 quantity of heroin. Never served on a Grand Jury.
8 Never served in the military. I have a friend who,
9 years before I met him, had been an undercover
10 narcotics detective here in New York City. He's
11 retired from that position before I met him. I
12 have several college and law school friends who
13 were assistant U.S. attorneys.

14 THE COURT: Ever watch any of the
15 prosecutor's do their thing in the courtroom?

16 PROSPECTIVE JUROR: Other than as a juror
17 in that case and observed a couple of other cases,
18 no, and never them personally.

19 THE COURT: Your friend, the former
20 undercover cop, first name wasn't Frank?

21 PROSPECTIVE JUROR: Correct.

22 THE COURT: Continue.

23 PROSPECTIVE JUROR: Relatives and friends
24 have been victims of various crimes, nobody
25 injured in any of them. We had a car broken into.

VOIR DIRE

1 My mother had her purse snatched by someone who
2 ran away. A friend of mine was mugged in Central
3 Park. I think a watch was stolen. My grandmother
4 who had a home health person, things were found
5 missing from her apartment. She had people come
6 up she didn't know and distracted her and cleaned
7 out her drawers. I have been a party to a civil
8 suit. Once as a plaintiff, once as a defendant.
9 Was sued by a rival many years go. Was resolved
10 outside of court. My wife and I were involved in
11 a medical malpractice suit that we really haven't
12 pursued about 18 years ago. I can be fair and
13 impartial. I live on the Upper East Side.

14 THE COURT: I know everybody is having a
15 good time. I know you are curious when this ends.
16 Because of the budget situation, we're ending
17 about now. In the better times, we'd go until we
18 finish this. These aren't the better times.

19 You heard me give the schedules of 9:45
20 to some and 10:30 to others. I need you folks
21 here by 9:45. We need to finish this to get back
22 on track.

23 This is New York City. This is
24 Manhattan. The weather seems to be okay. The
25 transit system, you never know what is going to

VOIR DIRE

1 happen. Allow for all the contingencies. Be here
2 by 9:45. Have a nice evening.

3 If you happen to see any of us in and
4 around your neighborhood, the buildings, crossing
5 streets, you can't talk to us. Do not smile at
6 us. We cannot have any interactions with you.
7 Have a nice evening.

8 Your obligation is to this place. Do not
9 go to the central jury room. Outside the corridor
10 by 9:45. We'll bring you in.

11
12
13 (Continued on next page.)
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25

1 SUPREME COURT OF THE STATE OF NEW YORK.
2 COUNTY OF NEW YORK PART-93

3 THE PEOPLE OF THE STATE OF NEW YORK

4 -against-

5 HEARING

6 EDWARD GREEN,

7 Defendant

8 September 10, 2008

9 B E F O R E: HONORABLE E. MC LAUGHLIN, JSC
10

11 (Appearances as previously mentioned.)

12 COURT OFFICER: Panel entering.

13 THE COURT: Well, we do what we can.

14 Somebody's watch is broken. Somebody doesn't
15 believe what we're talking about.

16 So we're going to start with Ms. Moses.

17 Don't tell me you need the questionnaire. You
18 don't remember the questions from yesterday.

19 PROSPECTIVE JUROR: Some of them.

20 THE COURT: How far did you get in
21 school?

22 PROSPECTIVE JUROR: I have an
23 undergraduate degree. I was born in Brooklyn. I
24 lived in New York City for about 20 years. I have
25 about 12 relatives in New York City. I'm not

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1 married. I work for a nonprofit organization that
2 provides services for children with medical
3 challenges. I do not have any children. I have
4 an undergraduate degree. I never served on a
5 jury, civil, criminal or grand. I never served in
6 the military. I do have a friend who is a police
7 officer. He does work covering narcotics in Coney
8 Island, Brooklyn. I also do have a friend who is a
9 corrections officer on Riker's Island.

10 THE COURT: The officer in Brooklyn who
11 does narcotics, do you know whether the person
12 works in plainclothes or uniform and do you know
13 more specifically what kind of assignment that
14 person has?

15 PROSPECTIVE JUROR: I'm not hundred
16 percent sure. He just recently, I'd say in the
17 last year, was put on that beat. I believe he
18 wears a uniform, but he might wear plainclothes.
19 Not sure. I do not have any close -- I'm sorry.
20 Close friends, and I have personally been a victim
21 of petty crime. A purse was stolen and my credit
22 credits were used. I have never been a party to a
23 civil lawsuit or in court for any other reason. I
24 think that I can be fair and impartial.

25 THE COURT: When you use the word

PROCEEDINGS

1 "think," is that a close call after a long and
2 argues debate or phraseology?

3 PROSPECTIVE JUROR: Phraseology. I live
4 on the Upper East Side.

5 THE COURT: Anything else?

6 PROSPECTIVE JUROR: Nope.

7 THE COURT: Mr. Small.

8 PROSPECTIVE JUROR: I was born in New
9 York. I live here for 30 years. I have ten
10 relatives in New York City. Currently, married,
11 work in the hospital. I do research. My wife
12 does advertising. I have no children. I have a
13 graduate degree. Never served on any civil jury
14 or any Grand Jury. Never served in the military.
15 I have several close friends in the NYPD. I have
16 just been employed on the force one or two years,
17 doing street beat. I have a close friend who is
18 an ADA in the Bronx.

19 THE COURT: Ever watch him or her in
20 court?

21 PROSPECTIVE JUROR: No.

22 THE COURT: He or she talk about drug
23 trials?

24 PROSPECTIVE JUROR: Most of the stuff
25 he's talked about is possession of drugs.

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1 THE COURT: How long has that person had
2 that job?

3 PROSPECTIVE JUROR: About five years. I
4 have been a victim of a crime. Last year I was
5 robbed with my wife on my honeymoon.

6 THE COURT: Somewhere outside Manhattan I
7 gather.

8 PROSPECTIVE JUROR: Yeah.

9 THE COURT: Outside the country.

10 PROSPECTIVE JUROR: Another country?

11 THE COURT: Sorry to hear that.

12 PROSPECTIVE JUROR: Never a party to a
13 lawsuit. I can be fair and impartial. I live on
14 the Lower East Side.

15 THE COURT: Anything else?

16 PROSPECTIVE JUROR: No.

17 THE COURT: Mr. Friedman.

18 PROSPECTIVE JUROR: I should start at the
19 end because you are encouraging people if there's
20 something to discuss.

21 THE COURT: What's the problem?

22 PROSPECTIVE JUROR: Can I talk in
23 private?

24 THE COURT: Sure.

25 (Whereupon, a sidebar conference was held

PROCEEDINGS

1 on the record out of the hearing of the jury.)

2 THE COURT: What do you need to say?

3 PROSPECTIVE JUROR: I'm in recovery.

4 THE COURT: Do you think seeing half a
5 kilogram of cocaine is a bad idea?

6 PROSPECTIVE JUROR: In term of triggering
7 me, no, but I'm recovering from cocaine.

8 THE COURT: That doesn't bother me. Do
9 you think you can be fair?

10 PROSPECTIVE JUROR: Yeah.

11 THE COURT: When did you solve your
12 problem, within the last couple of years?

13 PROSPECTIVE JUROR: Within the last
14 couple of years. About a year and a half ago.

15 THE COURT: Were you ever arrested?

16 PROSPECTIVE JUROR: No.

17 THE COURT: Okay. If you think you're
18 fine, you can stay. Thank you.

19 (The bench conference concluded and the
20 proceedings continued in open court as follows:)

21 PROSPECTIVE JUROR: Native New Yorker
22 for 47 years. Four relatives in New York City.
23 Not married. Currently not working 'cause I'm
24 switching careers.

25 THE COURT: What kind of work?

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1 PROSPECTIVE JUROR: Advertising sales and
2 work with nonprofits in fund raising. No
3 children. College. I have served on a couple of
4 criminal juries before, one of which was for drug
5 possession.

6 THE COURT: Did you resolve the case?

7 PROSPECTIVE JUROR: We decided the case.

8 THE COURT: Did anyone speak with you
9 afterwards?

10 PROSPECTIVE JUROR: No.

11 THE COURT: Was that the only verdict you
12 reached or participated in a criminal case?

13 PROSPECTIVE JUROR: There is a second
14 degree one, but I don't recall what it was.

15 THE COURT: Continue.

16 PROSPECTIVE JUROR: Have not served on
17 Grand Jury. Not served in the military. No close
18 family or friends -- yes, I mean, I've been the
19 victim of a crime and so has my family. My car
20 was stolen.

21 THE COURT: Any violent crime?

22 PROSPECTIVE JUROR: No.

23 THE COURT: Continue.

24 PROSPECTIVE JUROR: Might have been part
25 of a lawsuit in relation to a car accident years

PROCEEDINGS

1 ago. Yes, I can be impartial. I live on the Upper
2 East Side.

3 THE COURT: Anything else.

4 PROSPECTIVE JUROR: No.

5 THE COURT: Mr. Theokas.

6 PROSPECTIVE JUROR: Born in Arkansas.

7 Live in New York five years. No relatives in the
8 city. Not married. Copy editor at a medical
9 website. No kids that I'm aware of. I have a
10 college degree. Never served on a civil, criminal
11 or Grand Jury. Never in the military. No
12 relative or friend in law enforcement. Two
13 friends victims of crimes.

14 THE COURT: What sort of crimes.

15 PROSPECTIVE JUROR: One was a rape.
16 Somebody she knew, but she didn't report it. The
17 other was a theft. Somebody stole her wallet. She
18 did report that. It was in DC. The person doing
19 it committed the same crime in Virginia, so the
20 Feds got involved. Never a party to a civil
21 lawsuit. When my parents divorced, I was in court
22 a lot. I can be fair and impartial. I live in
23 Harlem.

24 THE COURT: Have you lived in another
25 State other than New York and Arkansas?

PROCEEDINGS

1 PROSPECTIVE JUROR: Virginia, Illinois,
2 North Carolina.

3 THE COURT: Do you have a credit problem?

4 PROSPECTIVE JUROR: My dad was in the
5 military.

6 THE COURT: Mr. Moskowitz.

7 PROSPECTIVE JUROR: Born in the Bronx.

8 Lived in New York City for 44 of my 54 years.

9 Lived in Maine for ten years. Thirty relatives
10 living in the Metropolitan area. I'm married.

11 Working. I work for a nonprofit developer of
12 affordable housing. I am director of property
13 management. My wife works. She's the associate
14 of a special needs school in New Jersey. I have
15 two grown children. College educated. I have
16 never served on a jury of any sort. Never been in
17 the military. I don't have a relative that works
18 for law enforcement or friends that work for law
19 firm. My dad was a victim of a crime in 1974. He
20 was robbed at gunpoint in a grocery store on 73rd
21 and First Avenue. I have been a party to a civil
22 lawsuit as part of my work in property management
23 over the course of 20 years. I have no problem
24 whatsoever listening -- being fair and impartial.
25 I live on the Lower East Side.

PROCEEDINGS

1 THE COURT: Anything else we should know?

2 Ms. Hirsh.

3 PROSPECTIVE JUROR: Can I talk in
4 private?

5 (Whereupon, a sidebar conference was held
6 on the record out of the hearing of the jury.)

7 THE COURT: Yes.

8 PROSPECTIVE JUROR: My understanding is
9 that the person in the first seat is a foreperson.

10 THE COURT: You do not have to worry
11 about that. You're not in the first seat. Suppose
12 you were, what would be the problem?

13 PROSPECTIVE JUROR: I'm not a leader.

14 THE COURT: Foreperson doesn't even have
15 to do anything special. You're not in any
16 position to be the foreperson. Automatically it
17 is the foreperson in the first seat.

18 MR. BERLAND: Can I ask a question?

19 THE COURT: Yes.

20 MR. BERLAND: If selected on the jury, at
21 the end of the case you have to be in the back of
22 the jury room deliberating. Would you feel
23 comfortable giving an opinion when everyone is
24 discussing the evidence?

25 PROSPECTIVE JUROR: Yeah, I'll give my

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opinion.

MR. BERLAND: You'll be open to discussion?

PROSPECTIVE JUROR: Yes. I don't feel comfortable being in control of people very well.

THE COURT: That's my job.

(Whereupon, the sidebar conference concluded and the proceedings continued in open court as follows:)

THE COURT: Anybody arrested, convicted
of a crime?

Mr. Smalls. Is it you or somebody you know?

PROSPECTIVE JUROR: Arrested for disorderly conduct in Manhattan.

THE COURT: Did you do community service?

PROSPECTIVE JUROR: They dismissed it.

Arrested for possession.

THE COURT: Drug, marijuana?

PROSPECTIVE JUROR: Marijuana.

THE COURT: Somebody else? Family members.

Mr. Hsia.

PROSPECTIVE JUROR: Friends. Some were incarcerated for smoking pot in public. My

PROCEEDINGS

1 brother, I think, went to -- was caught for
2 tearing off meter heads.

3 THE COURT: Meter heads with money in
4 them?

5 PROSPECTIVE JUROR: No. That's all I can
6 remember.

7 THE COURT: Somebody else prosecuted by
8 the Manhattan district attorney's office now or in
9 the past?

10 Okay, Mr. Berland.

11 MR. BERLAND: Good morning. We're now
12 here at day two. We'll make this quick.

13 Mr. Smalls, I think you said yesterday
14 that you are a superintendent in a residential
15 building?

16 PROSPECTIVE JUROR: Yes, sir.

17 MR. BERLAND: Where is that building
18 located?

19 THE COURT: General area.

20 PROSPECTIVE JUROR: Lower Manhattan.

21 MR. BERLAND: You also said that your
22 spouse works in a law firm.

23 PROSPECTIVE JUROR: Works for a lawyer.

24 MR. BERLAND: What type of law?

25 PROSPECTIVE JUROR: Criminal law.

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1 MR. BERLAND: Is she here in this court
2 often, do you know?

3 PROSPECTIVE JUROR: I don't know. Mostly
4 out in Brooklyn.

5 MR. BERLAND: Now, your brother was
6 convicted of possession. Do you feel that that
7 would affect you or influence you in any way from
8 serving on this case?

9 PROSPECTIVE JUROR: No.

10 MR. BERLAND: How do you feel the police
11 handled the investigation and arrest of your
12 brother?

13 PROSPECTIVE JUROR: Got caught. You are
14 presupposing an investigation.

15 MR. BERLAND: The police were doing their
16 job, made the arrest?

17 PROSPECTIVE JUROR: Yeah.

18 MR. BERLAND: Mr. Brea, how are you?

19 PROSPECTIVE JUROR: How are you doing.

20 MR. BERLAND: You said you assist lawyers
21 in court. How long have you been doing that?

22 PROSPECTIVE JUROR: Three years.

23 MR. BERLAND: What kind of law? Any
24 criminal law?

25 PROSPECTIVE JUROR: Not too familiar with

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1 that. Just mainly corporate.

2 MR. BERLAND: Ms. Wilson, you're a
3 retired teacher?

4 PROSPECTIVE JUROR: Yes.

5 MR. BERLAND: Where do you teach?

6 PROSPECTIVE JUROR: Lower East Side and
7 Chinatown.

8 MR. BERLAND: What age?

9 PROSPECTIVE JUROR: I taught children
10 from kindergarten to high school. I'm
11 hearing-related service provider.

12 MR. BERLAND: Same kids?

13 PROSPECTIVE JUROR: The Little Red
14 Schoolhouse.

15 THE COURT: For 13 years?

16 PROSPECTIVE JUROR: Yeah. I'm a
17 hearing-related service teacher. I taught students
18 with hearing impairments.

19 MR. BERLAND: How long have you been
20 retired?

21 PROSPECTIVE JUROR: Just since June.

22 MR. BERLAND: Enjoying yourself?

23 PROSPECTIVE JUROR: I am so far.

24 MR. BERLAND: Mr. Theokas, you live in
25 Harlem. Do you live within a three- or four-block

PROCEEDINGS

1 radius from 132nd Street?

2 PROSPECTIVE JUROR: Maybe five, six
3 blocks.

4 MR. BERLAND: Would that affect your
5 ability to sit on this case?

6 MR. BERLAND: Mr. Sullivan, who was
7 sitting in the box yesterday was excused because
8 he said he had a problem with the New York drug
9 laws and could not sit on the case. I want to
10 know if there's anyone else who feels that way.

11 I ask you Mr. Bienenstock, I know
12 yesterday you said that you had some problems with
13 the law, however you think you can put that aside,
14 listen to the Judge's instructions and be fair and
15 impartial to both sides; is that correct?

16 PROSPECTIVE JUROR: Yes.

17 MR. BERLAND: Are you sure?

18 PROSPECTIVE JUROR: Yes.

19 MR. BERLAND: Anyone else feel like
20 Mr. Sullivan did yesterday? Again, this is a drug
21 possession case with a large amount of cocaine
22 recovered.

23 MR. BERLAND: Thank you.

24 THE COURT: Mr. Keith.

25 MR. KEITH: I always feel compelled to

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1 reintroduce myself. My name is Arnold Keith.

2 Have all of you heard the previous
3 questions that were asked of the other groups of
4 jurors? Everybody else did, all right.

5 I will start with you, Mr. Small. You
6 work as a superintendent in a residential
7 building; is that correct?

8 PROSPECTIVE JUROR: Yes, sir.

9 MR. KEITH: What type of duties do you
10 have?

11 PROSPECTIVE JUROR: For the most part, I
12 make sure the handymen oversee their work, oversee
13 the porter's work. I make sure the building is
14 clean. Right now, the building is under
15 construction. I deal with a lot of contractors
16 who are constantly out of the building; plumbing,
17 bricking. You name it, I basically do it.

18 MR. KEITH: Do you have occasion to be in
19 a resident's apartment to repair something?

20 PROSPECTIVE JUROR: Yes, sir, all the
21 time.

22 MR. KEITH: Are you sometimes in a
23 person's apartment alone?

24 PROSPECTIVE JUROR: Yes, sir, all the
25 time.

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1 MR. KEITH: Your wife works for a
2 criminal lawyer. Do you ever talk with her --

3 THE COURT: I hate that expression. It's
4 a lawyer that practices criminal law, rather than
5 a criminal lawyer.

6 MR. KEITH: That sounds better.

7 A lawyer that practices criminal law.
8 Does she ever talk to you about her work in the
9 criminal process?

10 PROSPECTIVE JUROR: Yes, sir, sometimes.

11 MR. KEITH: Mr. Smalls, can you promise
12 me that if you are selected on this jury, that
13 whatever law you've learned from her or from TV or
14 from anywhere else, I am asking you to try your
15 best to suppress it, and will you follow the law
16 that this gentleman gives you?

17 PROSPECTIVE JUROR: Yes, sir.

18 MR. KEITH: Even if it's different than
19 what you've learned, the law he gives, that's the
20 law I want you to follow. Can you do that?

21 PROSPECTIVE JUROR: Yes.

22 MR. KEITH: Can we all promise to do
23 that?

24 PROSPECTIVE JURORS: Yes, sir.

25 MR. KEITH: Mr. Brea, police officer

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1 friends. The testimony in this case will be
2 primarily police officers. Can you give Mr. Green
3 a fair trial?

4 PROSPECTIVE JUROR: Yes.

5 MR. KEITH: You will listen carefully to
6 these guys?

7 PROSPECTIVE JUROR: Yes.

8 MR. KEITH: You're going to scrutinize
9 it?

10 PROSPECTIVE JUROR: Yes.

11 MR. KEITH: If you are selected as a
12 juror, when it is time to deliberate, you will
13 talk to the other jurors about what was said?

14 PROSPECTIVE JUROR: If it needs me to,
15 yes.

16 THE COURT: You're required to talk with
17 everybody.

18 PROSPECTIVE JUROR: Okay. Then, yes.

19 MR KEITH: There's no stopwatch and
20 nobody is counting. You spoke for five minutes
21 and you spoke for seven, so I have to let you
22 speak for two. Everybody has to participate in
23 the deliberations. You do not go in there, think
24 about what you would want to do, what you think
25 and somehow there is a verdict. You talk.

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1 If you are selected as a juror, do you
2 promise to participate, say what you think, give
3 your point of view, that's it. You can all do
4 that?

5 THE COURT: I don't know what "that"
6 means. That is your viewpoint. That's the
7 discussion points. He'll explain this more to you
8 later.

9 MR. KEITH: Of course, participate,
10 exchange, but I want you to participate. Every
11 juror that is selected, please participate in the
12 process, say what's on your mind, listen to other
13 people. The judge will explain the deliberations
14 process now in more detail.

15 Ms. Hirsh, do you have a problem with
16 that?

17 PROSPECTIVE JUROR: No.

18 MR. KEITH: Mr. Wachtel, your uncle is a
19 retired police officer?

20 PROSPECTIVE JUROR: Yes.

21 MR. KEITH: Are you okay for this case?

22 PROSPECTIVE JUROR: Yes, I'm fine. He
23 passed on when I was a little boy. It's just that
24 I have his gold retirement shield in my safe
25 deposit box.

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1 MR. KEITH: You will give Mr. Green a
2 fair trial?

3 PROSPECTIVE JUROR: Absolutely.

4 MR. KEITH: Generally speaking, there is
5 a saying, there's two sides to every story. In
6 this case, you may not hear the other side.
7 Anybody have a problem with that?

8 THE COURT: Wait a second, I think we
9 have a -- I don't think we can introduce the topic
10 that way. I think it's better if I try it this
11 way.

12 Who has seen the county fairs? The
13 strength test that you periodically see in a movie
14 where you've got that bell, the column, sometimes
15 a whimsical saying as you go up or down the chart.
16 You eat a better breakfast, try Wheaties, you are
17 weak. You pay your money, take your chances you
18 bang the platform, try to drive the metal device
19 to ring the bell.

20 You are going to be watching and
21 listening to see if the prosecutor has enough
22 strength or to ring the bell. The defendant in
23 this and every other criminal case in the United
24 States has no burden of proving or doing anything.

25 Put aside any thoughts about what they

PROCEEDINGS

1 1 might do, what they might have done if they don't
2 do anything. Forget about why there is no defense
3 case, if it turns out there's no defense case.
4 We're here to see if I can ring the bell.

5 What the defense does or doesn't do
6 doesn't affect at all whether on his own he's able
7 to ring the bell. That's the law. In at least
8 more than half of the cases, there is no defense
9 case. Acquittals, convictions. The focus is on
10 what the prosecutor can do.

11 Go ahead.

12 MR. KEITH: Ms. Wilson, you served on a
13 case before that involved narcotics.

14 PROSPECTIVE JUROR: Yes.

15 MR. KEITH: I believe you indicated that
16 after the case, the judge nor the lawyers spoke
17 with you.

18 PROSPECTIVE JUROR: That's correct.

19 THE COURT: That will be the case here,
20 too.

21 MR. KEITH: Again, I know I'm repeating
22 myself, but can you promise me if you are
23 selected, you will follow the law that the judge
24 gives you?

25 PROSPECTIVE JUROR: Yes.

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1 MR. KEITH: In particular that you do not
2 shift the burden of proof. Mr. Green -- the
3 burden is on them to prove the case beyond a
4 reasonable doubt. Can you accept that?

5 PROSPECTIVE JUROR: Yes.

6 MR. KEITH: Mr. Bernstein, did you do any
7 criminal law?

8 PROSPECTIVE JUROR: Never practiced
9 criminal law.

10 MR. KEITH: I know you know how to, if
11 you want to, to look up the laws that are involved
12 in this case, the jury charges, things of that
13 nature. I hope you haven't done that already.
14 Can you promise me if you are selected, that you
15 will not do that?

16 PROSPECTIVE JUROR: Yes, I can promise
17 that.

18 MR. KEITH: Mr. Bernstein, I know in your
19 experience that you had some knowledge of criminal
20 law, just because that's the way it is. I am
21 asking if you are selected, that you follow the
22 jury instructions that Justice McLaughlin gives.
23 Can you do that?

24 PROSPECTIVE JUROR: Yes.

25 MR. KEITH: You have friends that are

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1 assistant DAs. I know those folks are very
2 prosecutorially minded. Can you give Mr. Green a
3 fair trial?

4 PROSPECTIVE JUROR: I can consider
5 everything open mindedly and participate in
6 deliberations and not be biased either. I can do
7 it collectively.

8 MR. KEITH: Can you give him a fair
9 shake, not prejudge against Mr. Green because of
10 your friendship with prosecutors?

11 PROSPECTIVE JUROR: They're formerly
12 prosecutors, but yes, I can.

13 MR. KEITH: Mr. Small, close friends are
14 police officers and very friendly with the Bronx
15 assistant DA.

16 PROSPECTIVE JUROR: Yes.

17 MR. KEITH: Will you give him a fair
18 trial?

19 PROSPECTIVE JUROR: Yes.

20 MR. KEITH: Listen carefully to the
21 police officers if you are selected and follow the
22 judges instructions?

23 PROSPECTIVE JUROR: Yes.

24 MR. KEITH: Mr. Friedman, you served
25 before a couple of times?

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1 PROSPECTIVE JUROR: Yes.

2 MR. KEITH: Can you please follow the
3 instructions of Judge McLaughlin?

4 PROSPECTIVE JUROR: Yes.

5 MR. KEITH: After hearing everything
6 you've heard and sharing with us what you have
7 shared, do you still feel as though you can give
8 Mr. Green a fair trial?

9 PROSPECTIVE JUROR: Yes.

10 MR. KEITH: That's it.

11 THE COURT: Please both groups step
12 outside.

13 (PROSPECTIVE JURORS EXIT.)

14 THE COURT: On first two, any cause by
15 the People?

16 MR. BERLAND: No.

17 THE COURT: Any cause by the defense?

18 MR. KEITH: No, Your Honor.

19 THE COURT: The People's position on
20 these two.

21 MR. BERLAND: I challenge both.

22 THE COURT: Next two, any cause?

23 MR. BERLAND: No.

24 THE COURT: Defense, any cause?

25 MR. KEITH: No.

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1 THE COURT: People's position.

2 MR. BERLAND: Challenge both.

3 THE COURT: Next two, any cause?

4 MR. BERLAND: No.

5 THE COURT: Defense, any cause?

6 MR. KEITH: No, Your Honor.

7 THE COURT: People's position.

8 MR. BERLAND: No challenges.

9 THE COURT: Defense.

10 MR. KEITH: The defense exercise
11 challenge to Ms. Leglet.

12 THE COURT: Yes, number five. Six,
13 Wolffson, is okay?

14 MR. KEITH: Yes.

15 THE COURT: Wolffson is 11.

16 Cause by the prosecution?

17 MR. BERLAND: No.

18 THE COURT: Cause by the defense on the
19 next?

20 MR. KEITH: No. We challenge number
21 seven.

22 THE COURT: Mr. Hsia. Any cause
23 challenge by the People?

24 MR. BERLAND: No.

25 THE COURT: Cause by the defense, Hsia,

PROCEEDINGS

1 the fellow at the end?

2 MR. KEITH: We have a jury.

3 THE COURT: He's number 12. Let's start
4 for two alternates.

5 Challenge by the People.

6 MR. BERLAND: No cause.

7 MR. KEITH: No cause.

8 THE COURT: People's position on
9 Moskowitz.

10 MR. BERLAND: Challenge.

11 THE COURT: Any cause on Theokas?

12 MR. BERLAND: No.

13 MR. KEITH: No.

14 THE COURT: People's position on Theokas.

15 MR. BERLAND: No challenge.

16 MR. KEITH: That's alternate one?

17 THE COURT: Yes. Any cause on Friedman by
18 the People?

19 MR. BERLAND: No.

20 MR. KEITH: No.

21 THE COURT: People's position on
22 Friedman.

23 MR. BERLAND: Fine by the People.

24 MR. KEITH: Alternate number two.

25 THE COURT: That's it. I don't see the

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1 need for more. Bring everybody in. Tell the
2 people from yesterday, which should be a total of
3 ten people, that I need them to stay outside. As
4 soon as we swear these people, I'll let this group
5 go and bring in the ten.

6 COURT OFFICER: Panel entering. The
7 choreography at this stage becomes really a
8 disaster.

9 THE CLERK: The following jurors remain
10 in your seat. If I do not call your name, you're
11 excused and report back to room 1510.

12 Windy Wolffson, John Hsia, Christopher
13 Theokas and Stuart Friedman. If you heard your
14 name called, please remain seated.

15 THE COURT: The last five, for the time
16 being, could you folks sit in the back just in
17 case there is an unexpected disaster. If you are
18 in the front row and name not called, go back to
19 the central jury room.

20 These folks acceptable to the
21 prosecution?

22 MR. BERLAND: Yes.

23 THE COURT: To the defense?

24 MR. KEITH: Yes.

25 THE COURT: Stand up and take the oath.

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1 THE CLERK: Do you solemnly swear or
2 affirm to try the case of the People of the State
3 of New York versus Edward Green in a fair and
4 impartial manner, and to the best of your ability
5 render a true verdict according to the law and
6 evidence?

7 JURORS: Yes.

8 THE COURT: Go with him. We will be ready
9 to start in a couple of minutes. The five who are
10 there, stay there.

11 Folks, sorry, we didn't get a chance to
12 chat. I'm hear until 2012 and you may be back, so
13 I'll see you. Go back to the central jury room.
14 Your ballots will be down there forthwith, as we
15 like to say.

16 COURT OFFICER: Jury entering.

17 THE CLERK: Timothy Carvin, seat number
18 one. Megan Stubbendeck, seat two. David Riley,
19 seat three. Michael Wagner, seat four. Gerforne
20 Johnson, seat five. James Wysock, seat number six.
21 Rafael G. Taveras, seat number seven. Ushtavaity
22 Davar, seat number eight. Second row. Shannon
23 Paulson, seat number nine. Donald Keister, seat
24 number ten. Wendy Wolffson, seat number 11.
25 John Hsia, seat number 12. Christopher Theokas,

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1 seat number 13, alternate number one.

2 Stuart Friedman, seat number 14, alternate number
3 two.

4 This is the case of the People of the
5 State of New York versus Edward Green. All parties
6 present and jurors present and properly seated.

7 THE COURT: As soon as the jury is picked
8 as has happened, the judge gives preliminary
9 instructions which are brief, which will give you
10 the order that a trial takes so you can follow the
11 proceedings. I'll tell you a little bit about
12 what you should anticipate with respect to the
13 interaction between the lawyers and myself with
14 regard to evidence and rulings.

15 When I finish speaking, the assistant is
16 required to give an address known as an opening
17 statement. The law requires that at the start of
18 the case, the People, because they have the burden
19 of proof here, must explain to the jury in outline
20 form what it expects the evidence to prove in
21 support of the charge they've brought.

22 Since the defendant in this case and
23 every other criminal case has no burden of proving
24 anything, they may if they choose to, but they are
25 not both obligated to, give an opening statement.

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1 The content of an opening statement is
2 not evidence. The only thing on which you will be
3 allowed to make your decision is your judgment and
4 your assessment of what happens from the witness
5 stand, whether it's testimony itself or physical
6 exhibits introduced during testimony.

7 There is also a stipulation about what a
8 chemist would say regarding the nature of the
9 substance that will be introduced.

10 Since the opening is not evidence, you
11 have to use it as a preview or as a guide. If you
12 hear something during an opening statement that
13 doesn't happen from the witness stand, you cannot
14 use it during your deliberations in any way.

15 After the People give their opening
16 statement, the defense has the option, but not the
17 obligation, of also giving one. The purpose of an
18 opening, irrespective of who gives it, is to give
19 preview of what is established during the course
20 of the trial.

21 After the opening, the assistant will
22 call witnesses and present physical exhibits.
23 There aren't many in this case. Whenever the
24 presentation by the People is finished, which
25 might end before the end of today, the defense has

PROCEEDINGS

1 the option, but no obligation, to do something.

2 Whenever the evidentiary part is
3 finished, the lawyers give their closing or
4 summation. By law, the defense goes first and
5 then the prosecution goes second. Only then will
6 I tell you what the law is regarding all the
7 things you need to know because as I've said
8 yesterday and perhaps today, this trial like every
9 other trial is about one thing, whether the People
10 can meet a certain burden of proof.

11 Since I will not explain what the
12 definition and what is it that burden of proof is,
13 in a real sense you have no idea how the case is
14 going because in the absence of definition and the
15 law, you do not know where it has to go if there
16 is a conviction. You are required and practically
17 you need to keep an open mind until I explain to
18 you what you need to do.

19 Trials are conducted according to rule of
20 evidence. Basically, it goes back as long as 825
21 years ago.

22 You have heard on T.V., seen reports
23 about objection. All right, well, that means I
24 have to do something. I either sustain it or
25 overrule it. Now, that means, not to be

PROCEEDINGS

1 egomaniacal, that means a quick review of
2 825 years of evidence. It doesn't take me long.
3 Doing that, I have a lot of dead judges whispering
4 in my ear.

5 If I say "Sustained," it means, from a
6 legal reason, the question or answer cannot
7 continue. If I sustain something, it means it's
8 not in what I refer to as the book of trial.

9 If I sustain an objection or having heard
10 something that you hear, I may, well, like every
11 judge virtually in every criminal case, look at
12 you and say disregard that, forget about that.
13 That's my removing it from the book of the trial.
14 If it's not in the book of trial, there is no way
15 in which you can use it in your deliberations.
16 It's out of the case.

17 On the other hand, if I overruled an
18 objection, it means from a legal reason, you can
19 listen to the answer and evaluate it later on as
20 you choose to.

21 Let's hear the People's opening.

22 MR. BERLAND: This is an extremely
23 straightforward and simple case. On November 1,
24 2007, at approximately 5:20 in the evening, a
25 detective from a New York Police Department

OPENING - PEOPLE

1 narcotics unit went to an apartment building
2 located at 451 Lenox Avenue with two duly
3 authorized search warrants in hand.

4 You will hear that a few days before
5 going to execute these two warrants, a narcotics
6 detective came to court, appeared before a judge,
7 and obtained one warrant to search an apartment
8 located on the second floor of 451 Lenox Avenue
9 and one warrant to search what was believed by the
10 police at the time was an apartment located on the
11 third floor of 451 Lenox Avenue.

12 Now, the evidence will show that on
13 November 1, 2007, this experienced team of
14 detectives went to the location, went to 451 Lenox
15 Avenue, which was a four-story brownstone building
16 located in Harlem, between 132nd and 133rd
17 Streets, and they went there in order to search
18 for cocaine and narcotics paraphernalia, which
19 they had reason to believe was present inside of
20 these two apartments.

21 When the detective arrived at the
22 location, they split up into two and three teams.
23 One team was going to enter the second floor
24 apartment and the other team was going to enter
25 what was believed at the time to be a third floor

OPENING - PEOPLE

1 apartment.

2 During this very short trial, you will
3 first hear from Detective Alfred Hernandez,
4 a 22-year veteran of the New York police
5 department. Detective Hernandez, one of the most
6 experienced narcotics detective in all of New York
7 City is now part of the Federal task force
8 investigating drug trafficking.

9 On November 1st of last year,
10 Detective Hernandez was part of the team that
11 entered the second floor apartment. He's going to
12 explain to you how the team going to the upper
13 floor, the third floor, entered the building
14 first. He will explain the layout of the building
15 of 451 Lenox Avenue.

16 On the street level you will hear there
17 is a laundromat. Directly next to the laundromat
18 is a locked entrance to the residential portion of
19 the building.

20 On entering the residential portion of
21 the building there is a stairway which leads to a
22 landing on the second floor. There is one door,
23 only one door on to the second floor at this
24 landing. This door leads to an apartment that has
25 a few rooms; the kitchen, a living room and a

=OPENING - PEOPLE

bathroom. From the second floor landing, there is a stairway which leads up to a third floor landing and one there on the third floor landing.

At the time they obtained the search warrants, the police believed that there was a single multi-room apartment located behind the third floor door. They believed that the layout of the third floor was the same as the second floor.

Detective Hernandez is going to take the witness stand and explain to you why his people, the team responsible for entering the second floor apartment didn't go in first. They wanted to ensure no congestion in the hallways or stairwell, that would slow up the team going to the upper floor.

The third floor entry team, went up the stairs, went to the third floor and opened a locked door on the third floor with a metal ram known as a ram. Around the time the third floor team went up and passed the second floor landing and went up to the third floor, that's when Detective Hernandez and his team went up to the second floor apartment.

The door to this apartment you will hear had a sign on it. The sign read office of Browns.

OPENING - PEOPLE

1 The door to the office of Browns was wide open,
2 completely open. There was a lock on the door, but
3 the door was open.

4 Now, sitting on a table towards the front
5 of the apartment, it's not a very big apartment
6 you will see pictures and hear testimony about the
7 apartment, sitting towards the front of the
8 apartment was an individual by the name of
9 Steven Brown. Steven Brown was all alone in the
10 apartment.

11 In the front room was a television
12 monitor showing live footage of both the front of
13 the building and the stairwell leading up to the
14 second floor, to the landing. Detective Hernandez
15 will tell you that he could actually see the rest
16 of his field team on this live monitor. He could
17 see the team, the team behind him actually
18 entering building.

19 Next to the front room where Steven Brown
20 was sitting was an extremely small open kitchen.
21 There was an exposed glass bookcase with four
22 shelves. On top of the exposed shelf was a large
23 wooden cigar box that contained approximately 17
24 Ziploc bags of cocaine. The tops of the Ziploc
25 bags were sealed, heat sealed closed. These bags

OPENING - PEOPLE

1 were packaged for sale. There was also money
2 inside of the cigar box. To be exact, \$965.

3 You will also hear there were two smaller
4 cigar boxes, red Philly Blunt. That's the brand.
5 There were two red cigar boxes also on the exposed
6 shelf that contained the cocaine.

7 One of the small boxes contained numerous
8 plastic bags which you will hear is used for the
9 packaging of cocaine. These bags are labeled Red
10 Apple. They were individually marked.

11 Now, also recovered from the room, on top
12 of the table where Steven Brown was sitting was a
13 bag of marijuana and empty --

14 MR. KEITH: Objection.

15 THE COURT: Overruled so far.

16 MR. BERLAND: A bag of marijuana and
17 empty gun holster.

18 MR. KEITH: Objection to that.

19 THE COURT: Same ruling.

20 MR. BERLAND: At the table where
21 Steven Brown was sitting. The police placed
22 Steven Brown under arrest and took all the
23 narcotics and narcotics paraphernalia for
24 safekeeping. You will also hear that the police
25 recovered additional \$942 dollars and set of keys

OPENING - PEOPLE

1 from Steven Brown.

2 You will hear around time that
3 Steven Brown was being placed under arrest, a
4 member of third floor entry team, the other team,
5 came down into the second floor apartment, the
6 third floor entry team. You will hear they had a
7 dilemma. There were actually four locked doors
8 behind this main third floor door.

9 See, the police believed behind the third
10 floor door the layout was going to be just as the
11 second floor. That wasn't the case. There were
12 four additional doors behind the door and another
13 stairwell leading up to the fourth floor of the
14 brownstone.

15 You will hear that behind this fourth
16 floor, there were also four additional rooms,
17 locked rooms. You will hear from the detective
18 who will testify that the third and fourth floors
19 of the building were converted into single --

20 MR. KEITH: Objection.

21 THE COURT: Overruled.

22 MR. BERLAND: That these eight rooms,
23 four on the third and four on the fourth floor,
24 were converted into single room occupancy
25 apartments, all no bigger than the size of jury

OPENING - PEOPLE

1 box. Each floor had a common bathroom.

2 You will hear, ladies and gentlemen, that
3 at the time the third floor entry team rammed
4 opened the door, they heard running above them and
5 heard a door slam on the fourth floor.

6 Because there were now eight locked doors
7 on the third and fourth floor, and because the
8 initial warrant authorized the police to search
9 what they believed to be a single third floor
10 apartment, the detectives exercised caution and
11 held off on executing the search warrant. They
12 decided, we're going to stop and secure the third
13 and fourth floors. That's exactly what they did.

14 You will hear that the police then took
15 the keys that were recovered from the
16 Steven Brown and they went up to search the fourth
17 floor to determine who had run into one of the
18 fourth floor rooms and slammed the door while they
19 were searching the premises for narcotics, for
20 cocaine.

21 You are also going to hear there was a
22 surveillance camera leading into one the locked
23 rooms on the fourth floor. A cable identical to
24 the one that ran into the second floor apartment
25 where Steven Brown was arrested.

OPENING - PEOPLE

1 You will hear that on November 1, 2007,
2 this cable did not run into any of the other rooms
3 in the building, just to the second floor
4 apartment where Steven Brown was located with 17
5 bags of cocaine and the fourth floor apartment
6 with small rooms on the fourth floor.

7 The police placed one of the keys they
8 recovered from Mr. Brown into the lock in the door
9 on the fourth floor room that was wired for
10 surveillance. Once it was determined that the key
11 fit into the lock and could actually open the
12 door, they knocked on the door. The police
13 knocked and announced themselves. They said,
14 Police. Open up. You are going to hear the
15 detective knocked and announced themselves many,
16 many times.

17 Again, ladies and gentlemen this fourth
18 floor room, just like all of the converted rooms
19 on the third and fourth floor, is extremely tiny.
20 You will hear testimony and you will see pictures.
21 It was actually smaller than the jury box you are
22 sitting in right now.

23 After receiving no response, the police
24 opened the door. You will hear that the lights
25 were completely out inside of the room. In fact,

OPENING - PEOPLE

1 the blinds were down and black plastic bags were
2 taped in front of the blinds. It was pitch black
3 in the small tiny room.

4 A detective then took a flashlight,
5 shined it in the room. Do you know what he
6 observed? The defendant, Edward Green sitting on
7 a couch. The defendant was sitting completely
8 still in the dark inside of this tiny room.

9 The police turned on lights and told the
10 defendant to lay on the ground for safety reasons,
11 but the defendant sat there stone cold and refused
12 to do anything or say a word.

13 MR. KEITH: Objection.

14 THE COURT: He's saying what the
15 testimony will be. The jury will figure out what,
16 if anything, it all means.

17 MR. BERLAND: Detective Hernandez will
18 take the witness stand and explain to you exactly
19 what he observed. Everything he observed when the
20 lights to the fourth floor room were turned on,
21 located in plain view throughout this very small
22 room was numerous and extensive narcotics
23 paraphernalia. There were empty bags used to
24 package cocaine.

25 There were digital scales used to weigh

OPENING - PEOPLE

1 cocaine. There were heat sealers used to seal
2 bags of cocaine, such as the heat sealed bags
3 which were found ready for sale on the second
4 floor. There was baking soda, hydrogen Peroxide
5 and other solutions used to cut or dilute cocaine
6 before it's packaged. These items were out in the
7 open on the mantel. Inside of the garbage bags
8 were kilogram wrappers used to package mass
9 quantities of cocaine. There was also a table, a
10 table that was used to cut and process cocaine.
11 This table was covered in cocaine residue.

12 You will hear there were spoons and cards
13 also containing cocaine residue inside of the room
14 out in the open. You will hear that there was
15 cocaine residue sprinkled through the entire room,
16 the room being used to package and store mass
17 quantities of cocaine.

18 The room where the defendant, ladies and
19 gentlemen, was desperately hiding in and in the
20 dark was clearly, clearly a drug den, and you will
21 hear that from the detectives who take the witness
22 stand, veteran narcotics detective who have been
23 doing this combined for 40 years.

24 You will hear how the fourth floor room
25 had a video monitor, a monitor similar to the

OPENING - PEOPLE

1 monitor found in the second floor apartment. Both
2 Steven Brown and Edward Green were inside of the
3 rooms that had comprehensive video surveillance on
4 the exterior of the building stairwells.

5 You will hear from Detective Hernandez
6 that video surveillance is paramount to a drug
7 trafficking operation.

8 MR. KEITH: Objection.

9 MR. BERLAND: That drug --

10 MR. KEITH: Objection.

11 THE COURT: There is an objection.

12 For 825 years, silence has reigned when there is
13 an objection.

14 Let's wait. What the testimony is about
15 is the various uses of these things.

16 Sustained for the time being.

17 MR. BERLAND: Edward Green, the defendant
18 just like Steven Brown was placed under arrest for
19 narcotics possession. You will hear that he had
20 approximately \$333 on him at the time he was
21 arrested.

22 You are also going to hear that there was
23 a closet inside of this small fourth floor room,
24 and when the police entered the room, they opened
25 the closet door to ensure nobody was inside for

OPENING - PEOPLE

1 safety purposes. Inside of the closet were
2 additional heat sealers, additional digital
3 cocaine scales and empty Ziploc bags used for
4 packing cocaine. Many of the empty bags were
5 labeled Red Apple in the same exact way as the
6 empty bags referred to from the second floor.

7 You will also hear that there were two
8 locked safes inside of the closet. The safes had
9 combination locks that could not be opened with a
10 key.

11 You're going to hear that based on all
12 the narcotics paraphernalia scattered in plain
13 view throughout the very tiny room, the fact that
14 cocaine was recovered in the second floor
15 apartment, and because there were two locked safes
16 inside of this closet, the police decided to
17 secure the room, just like they secured the third
18 and fourth floors of the building, and come back
19 to court, to this building in order to obtain a
20 supplemental search warrant to remove property and
21 search the two safes.

22 During the trial, you will hear from
23 Detective Romero, a 17-year veteran of the police
24 department. He was part of Detective Hernandez'
25 entry team. In fact, he was the detective who

OPENING - PEOPLE

1 opened the door to the fourth floor room and who
2 looked in with the flashlight.

3 After observing the two safes in the
4 room, Detective Romero left 451 Lenox Avenue and
5 came down here to this building, met a judge and
6 obtained the supplemental warrant. Upon receiving
7 the warrant, he contacted the members of team.
8 They were still located at 451 Lenox Avenue
9 securing the room on the fourth floor. Detective
10 Hernandez will tell you that minutes after the
11 supplemental warrant, the second warrant was
12 authorized.

13 The police used sledgehammers to open up
14 these two locked safes. Inside one of these safes
15 were two cigar boxes. One of the boxes was a red
16 Philly Blunt box, identical in appearance to the
17 box found in the second floor apartment. Inside
18 of the two cigar boxes were numerous, hundreds of
19 plastic bags containing smaller Ziploc Baggies of
20 cocaine. The cocaine was heat sealed just as was
21 the cocaine on the second floor and packaged and
22 ready for sale. The bags were identical to the
23 sealed bags on the second floor. Also inside one
24 of the cigar boxes within the safe was \$1,103.

25 You will hear inside the second safe was

OPENING - PEOPLE

1 a large baby gift bag. Inside of this gift bag
2 were three plastic bags, each containing large
3 chunks of cocaine. This cocaine was still in raw
4 form and not yet packaged for sale. There were
5 more than 500 grams of pure cocaine in these three
6 bags alone.

7 After all of the cocaine was recovered in
8 this case, it was sent to the police laboratory to
9 be tested. You're going to hear that all the
10 cocaine recovered inside of fourth floor room
11 alone weighed over one pound. It weighed more
12 than 17 ounces. It was more than half a kilogram
13 of cocaine.

14 Now, the evidence is going to show,
15 ladies and gentlemen, that the defendant was
16 arrested hiding inside a drug den with
17 paraphernalia and residue scattered everywhere in
18 a room smaller than the jury box you are sitting
19 in.

20 Detective Hernandez is going to explain
21 to you at that the prepackaged bags from both the
22 second and fourth floor were half gram bags that
23 sell in New York City after being diluted and cut
24 for approximately \$20 a bag. He will explain how
25 the street level of a hundred grams of cut cocaine

OPENING - PEOPLE

1 is about \$20,000.

2 Now, recovered inside of the fourth floor
3 room was more than 500 grams of pure cocaine.
4 Meaning, after being cut, there would be more
5 than 500 grams and the value well over \$20,000.

6 During the extremely short trial, as the
7 judge mentioned, the People's case might last just
8 today. You will not only hear from the police
9 department detectives, but you will have an
10 opportunity to review all the cocaine and
11 paraphernalia in this case. It will be in court on
12 this table for your review.

13 You will also have an opportunity to look
14 at Polaroid pictures taken when the search
15 warrants were executed. Although they are not the
16 best pictures, in fact I must admit the pictures
17 are pretty awful in quality than what was used at
18 the time by the search warrant teams, the Polaroid
19 pictures will give you an idea of the layout of
20 the apartments and some of the property recovered.

21 Now, yesterday during jury selection
22 defense counsel told you, just as I am telling
23 you, this is going to be a simple and
24 straightforward case. He's absolutely right. This
25 is a simple, straightforward and overwhelming

OPENING - PEOPLE

1 case. There really is very little evidence that's
2 in dispute.

3 Defense counsel said numerous times
4 yesterday that the defendant was inside of the
5 fourth floor apartment, merely in the wrong place
6 at the wrong time. Members of the jury, the
7 evidence will speak for itself and the evidence
8 will prove otherwise.

9 The judge explained to you during jury
10 selection, one way for a case to be resolved is
11 through a jury trial, and here we are. Here we
12 are. Just because we're here does not mean that
13 it's even a close call. The evidence is
14 overwhelming. At the close of evidence, I will
15 have one opportunity to appear before you.

16 At this time, I ask that after you
17 consider all of the overwhelming evidence, that
18 you come to the only logical and inescapable
19 conclusion, and that's that the defendant
20 absolutely knew what was taking place inside of
21 the fourth floor apartment and that he had control
22 over mass quantities of cocaine and narcotics
23 paraphernalia and that he possessed all of this
24 with the intent to sell it. It really is that
25 simple.

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1 Thank you.

2 THE COURT: Would you like to make an
3 opening statement, Mr. Keith?

4 MR. KEITH: No, Your Honor. In fact, I
5 have to make a motion outside the presence of the
6 jury.

7 THE COURT: But you will not make an
8 opening statement?

9 MR. KEITH: Legally, I think I have to
10 make my motion first.

11 THE COURT: Come on over.

12 MR. KEITH: I you think it will take a
13 few minutes.

14 THE COURT: I don't think so.

15 (Whereupon, a sidebar conference was held
16 on the record out of the hearing of the jury.)

17 THE COURT: What do you want to say? I'm
18 curious about the gun holster. Go ahead.

19 MR. KEITH: Your Honor, without the keys
20 this case has changed dramatically, and the Court
21 of appeals has ruled on this issue. The case of
22 People V Headly, 74 NY2d 858.

23 Your Honor, even if I were to -- what's
24 the word I'm looking for? If we agreed that
25 everything the prosecutor said in his opening

PROCEEDINGS

1 statement was absolutely correct, the Court of
2 Appeals in Headley tells us that there's
3 absolutely no way he would be able to prove the
4 possession, dominion and control by Mr. Green.

5 In Headley, there --

6 THE COURT: Is Headley a case with a safe
7 where there is no proof that the person in the
8 room with the safe had the combination?

9 MR. KEITH: No.

10 THE COURT: What's point of Headley?

11 MR. KEITH: Headley says four defendants
12 were inside of a heavily barricaded door, the
13 police came, knocked on the door, they didn't open
14 the door. The police used a battering ram, over 25
15 hits.

16 THE COURT: The Court of Appeals and
17 First Department know whatever the facts of
18 Headley are, I don't. What's the black letter
19 principles that you think is where your want to
20 go?

21 MR. KEITH: Okay. In Headley the facts
22 are far more egregious than in this case.

23 Decision -- let me just go through my notes here.

24 In Headley, there were three men in the
25 living room. When the police officers came in,

PROCEEDINGS

1 there was weapons, drugs and machinery found,
2 concealed in a metal box on an end table.

3 Now, in a bedroom, the defendant Headley
4 was found hanging from a window. In close
5 proximity to the defendant Headley, the police
6 found a loaded gun. They found an open pocketbook
7 with over \$2,000. There was money on the floor,
8 another gun found between the mattress and
9 bedding, drug paraphernalia, scale, sifter,
10 pyramid paper.

11 In the bedroom closet, the door was ajar,
12 a leather tote bag that contained cocaine and
13 marijuana, two more guns, two holsters and
14 ammunition --

15 THE COURT: So what happened?

16 MR. KEITH: The Court held that the
17 failure of the defendants to open the door does
18 not warrant an inference of criminal intent. The
19 Court of Appeals held that statutory supervision
20 did not apply to drugs not in open view. The
21 drugs in the container in the living room --

22 THE COURT: So far I'm --

23 MR. KEITH: The big issue did not
24 establish that the defendants had actual or
25 constructive possession of the drugs and weapons

PROCEEDINGS

1 and the Court issued a trial order of dismissal.

2 Now, this case, of course, has been cited and a
3 number of other cases.

4 THE COURT: I'm not going to take this
5 any longer. I think there are enough differences.

6 I thought you were going to focus on what's in the
7 safe. The fact that there is a similarity of bags
8 and stamps between the fourth floor and the second
9 floor, and Mr. Green is charged with what's on the
10 second floor, as well as what's on the fourth
11 floor.

12 Even if the jury says there's not enough
13 proof that he knew the combination or any proof
14 that he knew the combination and knew of what was
15 inside the safe, it's enough on which the jury can
16 decide he's liable for what was down on the second
17 floor.

18 I can't stop the trial at this juncture.
19 I can't and will not do it. The fact that somebody
20 had a trial order of dismissal in Headley seems
21 against what the Court of Appeals wants us to do
22 because the Brown case, which is given to the
23 jury, reserves decision.

24 See whether there is an acquittal and
25 give the People the option of appealing if the

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1 trial order of dismissal is granted following a
2 verdict. Trust me, your record is preserved.

3 MR. KEITH: Your Honor, I want to give
4 you two other cites. People V Edwards. It was a
5 similar search warrant. A search warrant was
6 executed. They described the location as a
7 narcotics factory. In that case there is a
8 language that says even if the defendant was aware
9 and had knowledge, that's not enough.

10 THE COURT: Enough for what?

11 MR. KEITH: To show that he had
12 constructive possession because he didn't live
13 there.

14 THE COURT: This is not the time to make
15 this kind of motion after the People's opening. I
16 thought you were going to object that the opening
17 statement was not the form of an argument. It was
18 long, repetitious.

19 MR. KEITH: Your Honor, I think should
20 dismiss these cases. Even if the People's evidence
21 comes out the way it is, these cases are saying
22 that it's not going to be enough.

23 THE COURT: I disagree. Maybe I agree on
24 count one, but I don't agree on count two.

25 MR. KEITH: Possession with intent to

OPENING - DEFENSE

1 sell. There is basically a chain. I can see you
2 have a real good argument with regard to the A
3 felony, but not the B felony.

4 THE COURT: Okay. If there is a defense
5 opening, now is the time.

6 (Whereupon, the sidebar conference
7 concluded and the proceedings continued in open
8 court as follows:)

9 MR. KEITH: Good morning, ladies and
10 gentlemen. What was just said by the assistant
11 DA, Mr. Berland, and what I'm about to say is not
12 evidence. The evidence will come from the witness
13 stand. Basically, what we're doing is outlining
14 what we expect the evidence to show.

15 Ladies and gentlemen, even if the
16 evidence shows everything that the assistant DA
17 claimed, I submit that it still will not be enough
18 information or evidence for you to conclude that
19 Mr. Green constructively possessed the cocaine
20 found in locked safes in the closet in the room
21 where Mr. Green was found.

22 The testimony will show that Mr. Green
23 was not the target of the search warrants --

24 MR. BERLAND: Objection.

25 THE COURT: He can make his opening

OPENING - DEFENSE

1 statement. If there are any requests to charge, I
2 will be glad to supply any information that is
3 necessary based on what has gone on up until that
4 point.

5 MR. KEITH: I expect the evidence to show
6 that the police had no information that Mr. Green
7 was involved in any prior transactions at that
8 location or a suspect in any way before they got
9 to the location.

10 Now, at the end of the case, when Judge
11 McLaughlin explains the law, he will give you law,
12 he will give you examples and ask you to consider
13 whether the drugs were in a place or a thing that
14 Mr. Green had dominion and control. Was it his
15 home? No. Was it his apartment? Was it his
16 hotel room? No. Was it his business
17 establishment? Is it? No. Obviously, not his
18 automobile. Did he have the power and authority
19 to do with it as he pleased? How would he know
20 the stuff was in a closet in a locked safe?

21 The judge will instruct you along the
22 lines with regards to whether or not the People
23 can prove possession beyond a reasonable doubt.
24 I'm asking you, ladies and gentlemen, to not shift
25 the burden of proof. You may not hear anything

OPENING - DEFENSE

1 from Mr. Green. I may decide not to put any
2 witnesses on. You all promised that you would
3 hold the People to their burden of proof.

4 Are the drugs in a trunk, a bag of
5 clothing or some item that belongs to and
6 exclusively used by Mr. Green? There will be no
7 proof of that. What we will learn from the
8 evidence is that this apartment is not owned or
9 leased by Mr. Green. This is a place where
10 clearly others --

11 MR. BERLAND: Objection. He says that's
12 what the jury will learn.

13 THE COURT: There is no objection that I
14 can think of. Overruled.

15 MR. KEITH: We will learn that this is a
16 place where clearly others had access to. As the
17 police, when they went in the second floor
18 apartment, they found a set of keys which gave
19 them access to this apartment.

20 Ladies and gentlemen, it's really rather
21 simple and straightforward. After evaluating all
22 the evidence and looking at the evidence, I think
23 you will be able to conclude that there is a
24 reasonable doubt.

25 Ladies and gentlemen, I ask you to listen

OPENING - DEFENSE

1 carefully to the evidence. The evidence
2 unfortunately, will not be as clear and
3 straightforward as it seems. Detective Romero, in
4 particular, his testimony will reveal several
5 inconsistencies from prior sworn statements. You
6 will have to ask yourself what is the truth? What
7 actually happened? I submit you will see in the
8 end that evidence in this case does not amount to
9 proof beyond a reasonable doubt.

10 I want to leave you with this thought,
11 ladies and gentlemen. You may recall during the
12 jury selection process, I asked two jurors, both
13 maintenance men in residential buildings, I asked
14 them both whether or not they've ever been alone
15 in a residential apartment --

16 MR. BERLAND: Okay. This is not opening
17 statement.

18 THE COURT: What's good for the goose, et
19 cetera. Overruled.

20 MR. KEITH: Both gentlemen answered yes.
21 I ask you, ladies and gentlemen, to just think
22 about that. Thank you.

23 THE COURT: The choreography of the trial
24 is complicated. We need to take about 20 minutes
25 to get witnesses and property. I need you folks

OPENING - DEFENSE

1 outside the room at five to 12. We'll start
2 hearing the testimony. I will tell you more about
3 scheduling at the end of today's session.

4 Give me twenty five minutes or
5 thereabouts. Don't go far. You can go out of the
6 building or anywhere you want, just be out of the
7 room at five of 12.

8 Keep an open mind. Do not discuss the
9 case. What you heard just now is arguments, not
10 evidence. See you at five to 12.

11 (JURORS EXIT.)

12 THE COURT: Take him up. Let's have him
13 back at five to 12.

14 (Continuing with trial.)

15 COURT OFFICER: Jury entering.

16 THE COURT: We're just about ready.
17 Soon, somebody will be crashing through the door,
18 looking flagrant and we'll be on the way. Call
19 somebody and on we go.

20 MR. BERLAND: The People call Detective
21 Alfred Hernandez to the stand.

22 COURT OFFICER: Witness entering.

23 Raise your right hand and face the clerk.

24 (Witness complies.)

25 THE CLERK: Do you swear the testimony

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1 you are about to give will be the truth, the whole
2 truth and nothing but the truth?

3 THE WITNESS: I do.

4 THE CLERK: Be seated.

5 COURT OFFICER: State your name, spelling
6 the last name, shield number and present command.

7 THE WITNESS: Detective Alfred Hernandez,
8 H-E-R-N-A-N-D-E-Z, shield 5046 of New York Drug
9 Enforcement Task Force. Good afternoon.

10 THE COURT: Go ahead.

11 DIRECT EXAMINATION BY

12 MR. BERLAND:

13 Q. Good afternoon, Detective.

14 A. Good afternoon, sir.

15 Q. How long have you been with the New York
16 Police Department?

17 A. Over 22 years.

18 Q. What is your current assignment?

19 A. Assigned to the New York Drug Enforcement Task
20 Force.

21 Q. What is your current rank within the Drug
22 Enforcement Task Force?

23 A. Detective first grade.

24 Q. How long have you been a first grade
25 detective?

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1 A. I was promoted to the rank of first grade
2 in 2006.

3 Q. How many grades of a detective are there in
4 the police department?

5 A. Three, sir.

6 Q. What is the highest rank?

7 A. Detective first grade.

8 Q. How long have you generally been a detective
9 within the New York police department?

10 A. I was promoted to detective in 1995.

11 Q. Sorry, 1990 --

12 A. 1995.

13 Q. Can you explain to the jury the type of cases
14 that the Drug Enforcement Task Force handles?

15 MR. KEITH: Objection.

16 THE COURT: He can testify about the
17 kinds of cases he handled before being promoted,
18 assigned or admitted to the task force, since
19 Mr. Green is not charged with one of those, right?
20 He can describe what he did right before.

21 Q. Where were you doing before joining the Drug
22 Enforcement Task Force?

23 A. The Narcotics Borough Manhattan North here in
24 New York County.

25 Q. And please describe for the members of the

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1 jury what exactly the Narcotics Borough Manhattan North
2 is.

3 A. It's the borough division, the narcotics unit
4 responsible for the coverage of narcotics enforcement
5 and conducting narcotics investigations in the northern
6 part of Manhattan, specifically from 59th Street, both
7 East and West Side north. The investigations, can, of
8 course, proceed out of Manhattan north, but our primary
9 concern is the Manhattan North region.

10 Q. Just to be clear, back on November 1st of last
11 year, were you assigned to Narcotics Borough Manhattan
12 North?

13 A. Yes, sir.

14 Q. How long had you worked at Narcotics Borough
15 Manhattan North?

16 A. Over 14 years.

17 Q. Within Manhattan North, were you assigned,
18 back on November 1, 2007 to a specific unit?

19 A. Yes, sir, I was.

Q. What unit would that be?

21 A. The major case team.

Q. Explain to the members of the jury what the
Manhattan North Narcotics major case team is.

24 A. The team within or the unit within -- each
25 borough has, within Narcotics Borough Manhattan North,

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1 the unit responsible for investigating mid-level to
2 large scale narcotics organizations or operations or
3 the sale, large distribution and sale of narcotics
4 within New York giving, of course, priority and primary
5 concern to the narcotics -- to the Manhattan North
6 region of New York County.

7 Q. Just to be clear, 132nd Street and Lenox
8 Avenue, does that fall under the jurisdiction of
9 Manhattan North?

10 A. Yes, sir, it does.

11 Q. What were some of your duties and
12 responsibilities during the years you were a detective
13 with the major case unit?

14 A. They varied from conducting buy and bust
15 operations to conducting short-term and long-term
16 investigations into the sale and distribution,
17 possession with intent to distribute narcotics within
18 New York and Manhattan North, to investigate and review
19 complaints from the community regarding narcotics
20 transactions and narcotics sales within their building
21 or their area and target individuals who were
22 responsible for those operations or organizations that
23 were selling narcotics in those areas.

24 Q. Now, during your lengthy career, approximately
25 how many arrests have you made?

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A. As the official arresting officer, actually the individual who is down on paperwork as the arresting officer, over 750.

Q. Seven hundred fifty?

A. Yes, sir.

Q. Approximately how many arrests have you assisted in during your career?

A. Several thousands.

Q. Approximately how many of these, talking about the several thousand arrests, were for narcotics possession?

A. Over 95 percent of those arrests.

Q. Approximately how many -- out of the 95 percent of cases, how many were for possession of a half kilogram of cocaine or more?

A. I don't know if I can put in percentage. A large number. Having been assigned to the major casing for over ten years, a large number of investigations that I was involved in were for large selling. A good number. I can't tell you specifically, but several hundred of those arrests.

Q. Have you had specialized training in the field, based on what you testified to, this might seem like a silly question, did you have specialized training in the field of narcotics enforcement?

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1 A. Yes, sir.

2 Q. Have you been trained in recognizing the
3 packaging and pricing of various narcotics drugs in
4 Manhattan?

5 A. Yes, sir.

6 Q. What about training in determining whether
7 certain household products are being used in the
8 distribution of cocaine? I'm referring to --

9 MR. KEITH: Objection to the form.

10 Leading.

11 THE COURT: Overruled.

12 Q. I am referring to what's commonly called drug
13 paraphernalia. Have you received training in
14 recognizing drug paraphernalia?

15 A. Yes, sir.

16 Q. Please explain all the training you have
17 received.

18 A. Um, well, the training commences right from
19 the assignment to the narcotics division where we
20 receive several weeks of training before our assignment
21 from the narcotics division in regards to the
22 identification of narcotics, the packaging used, value
23 of the narcotic, the methods utilized by operations to
24 package and distribute narcotics, the execution of
25 search warrants, recovery of evidence and the

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1 investigation and the obtaining of probable cause of
2 the evidence in order to obtain a search warrant and to
3 continue forward with an investigation.

4 Um, each year from that point we receive
5 training at least on two occasions from the organized
6 crime control unit, special projects unit, there is a
7 training unit which consists of updating our training
8 with regards to narcotics distribution, new methods to
9 package and sell, new prices.

10 On a monthly basis, we receive training
11 within our command from a supervisory officer who is
12 assigned to training over at the command which gives us
13 additional training and updates on new policies, any
14 new items that have been seen in New York or throughout
15 the United States and outside of the United States in
16 regards to trends in narcotics.

17 Q. Now, you mentioned a few times during your
18 testimony so far search warrants. During your career,
19 approximately how many search warrants have you been
20 involved with?

21 A. Several hundred.

22 Q. Is that both -- withdrawn.

23 How many of those several hundred search
24 warrants were for narcotics and narcotics
25 paraphernalia?

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1 A. The majority of them.

2 Q. Detective Hernandez, I want to direct your
3 attention to November 1, 2007. Were you working that
4 day?

5 A. Yes, I was.

6 Q. What was your assignment?

7 A. Um, initially my assignment was a recording
8 officer as a member of a team, a search warrant team
9 that was to execute two search warrants on that date.
10 Basically, my job is to assist the investigator in
11 charge or the arresting officer for the search warrants
12 of that day.

13 MR. KEITH: Your Honor, I object. I ask
14 that it be stricken. He didn't answer the
15 question.

16 THE COURT: Overruled. It's fine. He
17 was going to be the recording officer writing down
18 what needed to be written down regarding the
19 execution of the search warrant. Might have been
20 said more tersely, but fine.

21 What's next?

22 Q. You just testified that your team was going to
23 execute two search warrants. What was the location you
24 were going to be executing the warrants at?

25 A. 451 Lenox Avenue in Manhattan county.

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1 Q. Generally speaking, can you explain to the
2 members of the jury what a search warrant is?

3 A. A search warrant is an order approved by the
4 Court providing us with permission to enter a location
5 specified in the warrant in order to conduct a search
6 for the items specified on the warrant, whether
7 contraband or paraphernalia connected with the
8 contraband.

9 THE COURT: The area you can search
10 largely depends on what you are authorized to look
11 for? For example, a stolen diamond ring, as
12 opposed to a tractor-trailer truck, you can look
13 in anything that is small enough to contain a
14 diamond ring or a stolen antique postage stamp for
15 example.

16 Go ahead.

17 Q. Who at your unit actually obtained the two
18 search warrants, came to court to get the search
19 warrants?

20 A. Detective Romero.

21 Q. Do you know when the two search warrants were
22 obtained?

23 A. Yes, several days earlier. In late October.

24 Q. Can you please tell the jury about the
25 locations, the two locations that your unit was

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1 authorized to search?

2 A. Ah, yes, two apartments, one on the second
3 floor and one that was believed to be on the third
4 floor. I think they were known as apartment one and
5 apartment two.

6 Q. Did there come a time, Detective, that
7 Manhattan North Narcotics actually executed the two
8 search warrants?

9 A. Yes, sir.

10 Q. Can you explain what it means to the members
11 of the jury -- withdrawn.

12 Please explain what it means to execute a
13 search warrant. I know you discussed what a search
14 warrant is.

15 A. To execute a search warrant means basically to
16 discuss the search warrant, to do creative tactile plan
17 on the execution of the search warrant and to actually
18 go with a team into the location and secure the
19 location and search the -- if it's a location or an
20 apartment, to search that apartment specified in the
21 warrant.

22 Q. You mentioned a tactile meeting. Back on
23 November 1st of last year, did you and your fellow
24 officers, before going to 451 Lenox Avenue, have a
25 tactile meeting?

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1 A. Yes.

2 Q. How many officers were at this meeting,
3 roughly, if you recall?

4 A. Um, I would say, 15 or so, a minimum. About
5 15.

6 Q. Were all of these 15 or so officers involved
7 in the search warrant execution that took place at 451
8 Lenox Avenue?

9 A. Yes, sir.

10 Q. Now, were the officers split up into separate
11 search teams? I know there were two separate
12 locations. Explain that to the jury.

13 A. Each officer is assigned to a tactile plan
14 with a specific supervisor, and their responsibilities
15 are to provide safety and backup and to enter a
16 location, and they're each given a specific role in the
17 execution of the particular apartment they're assigned
18 to and then there are individuals who are assigned to
19 if there's two search warrants in one particular
20 building, there's one set of guys that will go on both
21 tact plans, usually assigned to front security, to
22 safeguard the front, close down the area of the
23 building, safeguard the back of the building, any other
24 locations that can be generally watched over while the
25 teams execute the search warrant.

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1 Q. Let's talk specifically --

2 THE COURT: I rather he testify. You said
3 "Let's talk." I assume you're going to ask him
4 questions.

5 MR. BERLAND: Of course.

6 Q. I'd like for you to --

7 THE COURT: Your style causes me to get
8 nervous.

9 Q. I want you to discuss the specific search
10 warrants executed on November 1, 2007. How many teams
11 were there executing --

12 THE COURT: Still two?

13 THE WITNESS: Yes, sir.

14 THE COURT: The same two we have heard
15 about several times?

16 THE WITNESS: Yes.

17 THE COURT: What's next?

18 Q. Approximately what time did you and the rest
19 of your team arrive at the location?

20 A. Shortly before -- sometime after five o'clock.
21 Shortly around 5:15 or so, that time.

22 Q. Were members of the search team in uniform or
23 plainclothes?

24 A. In plainclothes.

25 Q. Did you or any members of either of the two

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1 search teams have special equipment to be used in the
2 execution of the search warrants?

3 A. Yes, sir.

4 Q. Can you please explain what are rams?

5 A. Rams, battering rams which are used to gain
6 entry into locked locations, and what's known as a
7 ballistic shield, a bunker is also the word for it,
8 it's a plastic device, a device that's supposed to
9 protect you from any -- from rounds being fired, which
10 has a glass opening so that you can see through it and
11 has the NYPD logo in front of it, and as well as we
12 took out tools in case we needed the tools, Kelly tools
13 and items used to open locked compartments.

14 Q. You just said "Kelly tools." What are you
15 referring to?

16 THE COURT: Is that because the police
17 commissioner is named Kelly?

18 THE WITNESS: No, sir.

19 A. It's a long piece of iron, the fire department
20 uses it often, has a hook at the end, used to pry open
21 closed areas or closets or break open doors, things of
22 that nature.

23 Q. Can you describe for the jury the layout of
24 the building as you observed it when you arrived there?

25 A. The building has four floors. It has a

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1 commercial establishment on the primary floor, the
2 ground floor, and then residences above that commercial
3 establishment, which was a laundromat.

4 Q. The entrance to the laundromat, was that
5 separate from the entrance to the residential portion
6 of the building?

7 A. Yes, sir.

8 Q. Where was the entrance to the residential
9 portion of the building in relation to the entrance of
10 the laundromat?

11 A. Just to the right of the laundromat.

12 Q. Okay, what happened? What happened once your
13 team arrived at the location?

14 A. Once the supervisors gave the green light to
15 enter, a person was sent to try to get the front door
16 open that goes in the residential part of the area.
17 Once that person was in place, the supervisor gave the
18 green light for the teams to move in. The team that
19 was going to head up to the third floor landing went
20 before the team that I was part of that was going to
21 the second floor landing. They went in and headed up.
22 We headed up behind them. We went upstairs behind
23 them. We stopped at the second floor landing and they
24 continued upstairs to the third floor landing.

25 Q. I want to back up for one minute. The front

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1 door on the ground level to the residential portion of
2 the building, was there a buzzer system on that door?

3 A. Yes, sir.

4 Q. Was there a lock on this door?

5 A. Yes, sir.

6 Q. Did there come a time -- withdrawn.

7 I know you testified that your team went
8 in after the third floor team. Did there come a time
9 that you were on the second floor landing?

10 A. Yes, sir.

11 Q. How many doors on this landing?

12 A. Just one.

13 Q. Was this door open or closed?

14 A. It was open.

15 Q. Were there any signs on the open door?

16 A. Yes, sir.

17 Q. What did the sign say?

18 A. Office Browns.

19 Q. Browns, plural?

20 A. Yes, sir.

21 Q. At the time you were on the second floor
22 landing, could you see anything upstairs towards the
23 third floor?

24 A. Yes, the field team or the other search
25 warrant team heading up to the next landing where there

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1 was another door.

2 Q. Other than the top of the landing and the
3 other door, could you see anything else at that point?

4 A. Um, just basically them heading up to that
5 landing and coming upon a door that was there.

6 Q. What happened next? What did you and your
7 team do?

8 A. We entered into that second floor residence or
9 apartment, which was -- it was an apartment, but it
10 basically was made up almost like an office as it said
11 on the door, an office. It was a living room area. To
12 the left there was a separate little room which had a
13 card table and had playing cards on it. To the right,
14 there was an individual, and there was a small kitchen
15 alcove and a bathroom, and there were a lot of items
16 all over the place, shelves, TV monitors,
17 refrigerators, normal stuff that you would see in an
18 apartment, but also large tables, circular tables and
19 items you would see in an office.

20 Q. Now, you said there was -- you stated that
21 there was an individual inside of this room?

22 A. Yes, sir.

23 Q. Did you come to learn this person's name?

24 A. Yes, sir.

25 Q. What was the individual's name?

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1 A. Mr. Steven Brown.

2 Q. Where exactly in the apartment was
3 Steven Brown located when you entered?

4 A. Just to the right of the entranceway -- to the
5 right of the living room area where he was situated in.

6 Q. Was he seated at a table?

7 A. Yes, sir.

8 Q. Was anyone else located in the apartment?

9 A. No, sir.

10 Q. Now, what, if anything, was recovered by your
11 team inside of this apartment, the second floor
12 apartment pursuant to the search warrant?

13 A. Several items. A bag of marijuana --

14 MR. KEITH: Objection.

15 THE COURT: Overruled.

16 A. A wooden box containing several bags of
17 cocaine, several plastic baggies. There were small,
18 clear plastic baggies, Ziplocs in there, Ziploc bags in
19 there. I think a gun holster was also recovered in
20 that apartment.

21 Q. Now, you testified that the cocaine was within
22 a wooden box?

23 A. Yes, sir.

24 Q. What type of box was this? Please describe
25 it.

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1 A. A wooden box. I would say some sort of like a
2 cigar box or jewelry box and it was brown in color.

3 Q. Where was the brown wooden box located within
4 the apartment?

5 A. A living area by the kitchen alcove on a glass
6 shelving that had several items on it, including the
7 wooden box.

8 Q. Was the shelving open or closed?

9 A. Open.

10 Q. So the wooden box that contained the cocaine,
11 the box was in plain view?

12 A. Yes, sir.

13 MR. KEITH: Objection to the form.

14 THE COURT: I don't think it's leading.
15 Overruled.

16 Q. Anything else recovered inside the wooden box
17 other than cocaine?

18 A. I think some packaging. I am not too sure,
19 there may have been other items. I remember cocaine
20 and the cocaine bags.

21 Q. Do you recall if money was recovered?

22 A. Yes, a quantity of United States currency.

23 Q. Do you recall how much money was recovered in
24 the apartment?

25 A. Think at least \$900 -- over \$900.

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1 Q. And do you know where the money was recovered
2 within the apartment?

3 A. I don't remember exactly. I think it also was
4 where the shelving was. It may have been the same box,
5 but I'm not hundred percent sure.

6 Q. Is there anything that would help refresh your
7 recollection?

8 A. A copy of the voucher.

9 MR. BERLAND: Your Honor, would you like
10 this premarked.

11 THE COURT: Well, premarked would have
12 been before we were here. Who knew this was going
13 to happen? Sure. Have you started the numbers
14 already.

15 Q. Handing you what has been premarked People's
16 Exhibit 100.

17 THE COURT: One hundred?

18 MR. BERLAND: Just to be safe.

19 THE COURT: Does that help?

20 THE WITNESS: Yes, sir.

21 THE COURT: Where was it?

22 THE WITNESS: In the wooden box with the
23 cocaine.

24 Q. Were there any other cigar boxes recovered
25 within the apartment?

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1 A. There were cigar boxes inside that apartment,
2 yes, sir.

3 Q. Do you recall where these cigar boxes were
4 located?

5 A. Next to the wooden box on the same shelving.

6 Q. Can you describe the physical appearance of
7 the box, what color or was it labeled in any way?

8 A. Pink, I think red. They were Philly cigar
9 boxes. What I mean by Philly cigar boxes, boxes that
10 were for Philly Blunts. They say Blunt on it. Philly
11 cigars are commonly found in all grocery stores in New
12 York behind the counter and the cigars are sold from
13 them.

14 Q. You testified earlier that empty bags were
15 recovered from the apartment?

16 A. Yes, sir.

17 Q. Where were those recovered from?

18 A. In the Philly cigar boxes.

19 Q. Based on your vast training and experience in
20 narcotics enforcement, what was the significance of all
21 the empty plastic bags?

22 MR. KEITH: Objection.

23 THE COURT: Overruled, but we need to
24 know not so much what the significance was to him,
25 but what he thinks their use were for others.

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1 A. They're used to package cocaine for -- to get
2 it ready for sale purposes.

3 Q. Were any of the plastic bags labeled in way?

4 A. Some of them had the common red label, Red
5 Apple stamp on them, on the clear plastic bag.

6 THE COURT: What did you mean by the use
7 of the word "common"?

8 THE WITNESS: These are plastic bags seen
9 on numerous occasions, clear plastic bags used to
10 utilize cocaine for sale. I have seen them in
11 multiple apartments after a search warrant
12 execution for narcotics.

13 Q. You said you seen them multiple times.
14 Referring to red labels or labels in general?

15 A. Red labels on the specifically clear plastic
16 Ziploc bags, very small.

17 Q. Have you seen Ziploc bags during your career
18 and search warrant executions and bags that have other
19 types of labels?

20 A. Yes, sir.

21 Q. Explain to the jury the significance of
22 labeling.

23 A. The significance of labeling goes by --

24 MR. KEITH: Objection. It's irrelevant.

25 THE COURT: No, the jury is entitled to

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1 be schooled in things that might not be within
2 their normal understanding as they traverse our
3 borough. Overruled.

4 A. The significance with labeling is basically to
5 identify a particular product, a particular narcotic,
6 cocaine or other substance, for the buyer with the
7 knowledge that this item comes from a particular
8 location, particular seller in the region or area.

9 Q. Was any cocaine residue discovered inside of
10 the second floor apartment?

11 MR. KEITH: Objection to the form.

12 THE COURT: What is residue?

13 THE WITNESS: Residue is basically small
14 amounts, leftover amounts of cocaine.

15 THE COURT: Residue is what is left over,
16 whether it be the crumbs on a countertop after you
17 put a piece of bread or sandwich there? The
18 definition of residue is the stuff left over?

19 THE WITNESS: That's correct.

20 THE COURT: Ask him what supposedly
21 cocaine residue is and how he knows that.

22 Q. What is cocaine residue and how do you know
23 that?

24 A. Cocaine residue --

25 THE COURT: Well put.

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1 A. -- just the same thing, white powdery
2 substances found in its light form, scattered amounts
3 such as on countertops or in plastic bags or items
4 where there was cocaine and the cocaine was packaged or
5 moved and still remnants of it on the item, whether the
6 countertop or glass top or whatever the cocaine was set
7 on or sitting in.

8 Q. Was any cocaine residue recovered inside of
9 the second floor apartment?

10 MR. KEITH: Objection to the form.

11 THE COURT: There is certainly a point
12 there with respect to what the white stuff was, if
13 in fact, the jury decides there was white stuff.
14 He may answer. He may be confused as to what we
15 are talking about.

16 Why do you think the white stuff you said
17 was there was cocaine as opposed to something
18 else?

19 MR. BERLAND: If I may.

20 THE COURT: I prefer that he actually --

21 MR. KEITH: Let's let him answer the
22 question.

23 THE COURT: Go ahead.

24 A. There was residue on the area where the
25 cocaine was recovered from on the shelving in that

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1 apartment from what I recall.

2 THE COURT: Why do you think that was
3 cocaine as opposed to baking powder, baking soda,
4 unprocessed flour, talcum powder, lint?

5 THE WITNESS: The proximity of the
6 cocaine to where the residue was.

7 THE COURT: Anything about sight, smell,
8 touch, consistency?

9 THE WITNESS: The cocaine residue and the
10 white powder on the shelving resembles and is
11 consistent with the cocaine in the packaging
12 recovered in the wooden box.

13 THE COURT: I have to do a sentencing and
14 then we'll have to take the lunch break.

15 MR. BERLAND: I think this will be a good
16 time, unless you'd like me to ask a few more
17 questions. This is a logical stopping point.

18 THE COURT: Then far be it for me to do
19 anything illogical.

20 Keep an open mind. Do not discuss the
21 case. You're basically it now. We'll be able to
22 start at ten after two.

23 (JURORS EXIT.)

24 (Whereupon, a lunch recess was taken,
25 after which the following proceedings were had:)

YVETTE PACHECO SENIOR COURT REPORTER

HERNANDEZ - DIRECT - PEOPLE

1 THE COURT: Have a seat. You are still
2 under oath. Next question. Please continue.

3 Q. Good afternoon, Detective.

4 A. Good afternoon, sir.

5 Q. Before we broke for lunch, you were describing
6 what you had observed inside of the second floor
7 apartment at 451 Lenox Avenue. You testified that
8 Steven Brown was sitting at a table. Was anything
9 recovered from on top of that table?

10 A. Yes, sir.

11 Q. What would that be?

12 A. A small bag of marijuana.

13 Q. Was a gun recovered inside of that apartment?

14 A. No, sir.

15 Q. How about a gun holster?

16 A. Yes.

17 Q. To the best of your recollection, was anything
18 recovered on Steven Brown's person, on him?

19 A. Yes, sir.

20 Q. What would that be?

21 A. A denomination of United States currency, a
22 quantity of United States currency and a set of keys.

23 Q. Do you know how much money was recovered on
24 him?

25 A. Um, I think it was also in the 900 range.

YVETTE PACHECO SENIOR COURT REPORTER

HERNANDEZ - DIRECT - PEOPLE

1 Q. Now, did you notice any type of video
2 surveillance system in place inside of the second floor
3 apartment?

4 A. Yes, sir.

5 Q. Can you describe to the members of the jury
6 the video system you observed?

7 A. Yes, sir. In this particular apartment it was
8 basically a TV screen that was up on a wall unit in the
9 living room area to the right of the entranceway, which
10 had a split screen, and on the screen, you could
11 observe the entranceway into the building, as well as
12 the stairwell leading up towards the second floor
13 apartment.

14 Q. Just to be clear, was the video monitor on at
15 the time you entered the second floor apartment?

16 A. Yes, sir.

17 Q. What, if anything, did you observe on the
18 video monitor at this time?

19 A. Um, I observed the front of the building and
20 members of the team in front of the building that were
21 doing front security at the door and members of the
22 department, of our unit that were on the stairwell.

23 Q. Where was the video monitor in relation to
24 where Steven Brown was sitting?

25 A. If you are sitting in the same seat that

YVETTE PACHECO SENIOR COURT REPORTER

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1 Mr. Brown was sitting on, facing the wall, it would be
2 to his right.

3 Q. Detective Hernandez, based on your training
4 and experience in executing narcotics-related search
5 warrants, what was the significance to you of this live
6 video feed when you first entered the apartment?

7 MR. KEITH: Objection.

8 THE COURT: I think the jury doesn't need
9 help figuring that out. Sustained.

10 Q. Did you later come to learn whether or not
11 there was a video surveillance system in any of the
12 other apartments or rooms within the building?

13 MR. KEITH: Objection to the form.

14 THE COURT: The form is all right. There
15 has to be some basis on which he is going to give
16 an answer. Sustained.

17 Q. During the time you were at 451 Lenox Avenue,
18 did you notice any wires leading to any of the
19 apartments or apartment in the building?

20 A. There was a wire coming into the window on the
21 apartment on the fourth floor which was leading to a
22 monitor which was above a TV in the wall unit in the
23 apartment on the top floor.

24 Q. Right now are you referring to a monitor
25 inside the fourth floor room?

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HERNANDEZ - DIRECT - PEOPLE

1 A. Yes, sir.

2 Q. We'll get to that room in a little bit.

3 Were you personally responsible for
4 safeguarding all the narcotics and paraphernalia
5 recovered in conjunction with the search warrant
6 execution?

7 A. No, sir.

8 Q. Who was responsible for safeguarding the
9 apartment?

10 A. The individual responsible was
11 Detective Romero.

12 Q. Anthony Romero?

13 A. Yes, sir.

14 Q. You are being handed what was premarked for
15 identification as People's Exhibit's 1. Do you
16 recognize this?

17 A. Yes, sir.

18 Q. What is this?

19 A. A picture of Steven Brown.

20 Q. Did you take the photograph?

21 A. No, sir.

22 Q. Is this photograph a fair depiction of the way
23 Steven Brown appeared when he was arrested on
24 November 1, 2007, of last year?

25 A. Yes, sir.

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1 MR. BERLAND: I ask that that be received
2 into evidence, Your Honor, as People's Exhibit 1.

3 MR. KEITH: No objection.

4 THE COURT: Received number one.

5 (People's Exhibit 1 was received in
6 evidence.)

7 THE COURT: You are to decide any issues
8 as to Mr. Green. You're not to speculate about
9 what happened, if anything, to Mr. Brown or his
10 case. There will be some description by me about
11 the law where two people are accused of crimes
12 together. There is a circumstance under which
13 evidence relating to one is applicable to you
14 depending on certain factual conclusions you'll
15 reach. I'll explain that all to you.

16 For the time being, the point you focus
17 on is Mr. Green. Forget Mr. Brown for the time
18 being. We will come back and I'll describe what,
19 if anything, you'll be able to do with regard to
20 circumstances of Mr. Brown as it relates to
21 Mr. Green.

22 MR. BERLAND: This is premarked for
23 identification as 2.

24 (HANDING.)

25 THE COURT: What is 2, Detective?

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1 THE WITNESS: This is a wooden box,
2 Your Honor. Specifically inside is one of the
3 wooden boxes which contained the cocaine recovered
4 in the second floor apartment, and also the clear
5 plastic baggies, some of them marked with the
6 Apple logo also recovered in that apartment, and
7 also there is a gun holster inside this envelope.

8 Q. Again, you testified earlier that you observed
9 the evidence you are holding in People's Exhibit 2 for
10 identification inside of the apartment?

11 A. Yes, sir.

12 Q. Do the items within People's Exhibit's 2 for
13 identification, are they in the same condition or
14 substantially the same condition as they were when they
15 were recovered from the second floor apartment back on
16 November 1, 2007?

17 A. That is correct, sir.

18 Q. Just to be clear --

19 A. They are.

20 Q. Did all the evidence taken from 451 Lenox
21 Avenue, where was it sent to, if you know?

22 A. Depending on the item. It was sent to the lab
23 if it was a narcotic. If it was not a narcotic, it was
24 sent to a police storage facility where it's stored and
25 maintained in case it's needed in the future.

YVETTE PACHECO SENIOR COURT REPORTER

HERNANDEZ - VOIR DIRE - DEFENSE

1 Q. Were you personally responsible for picking up
2 the item from the storage facilities?

3 A. No, sir.

4 Q. Who was?

5 A. Detective Romero, Anthony Romero.

6 MR. BERLAND: Your Honor, at this time I
7 move into evidence People's Exhibit 2 subject to
8 connection.

9 MR. KEITH: Can I do a brief voir dire?

10 THE COURT: Sure.

11 VOIR DIRE EXAMINATION BY

12 MR. KEITH:

13 Q. You did not find the items; is that correct?

14 A. I initially observed them in the apartment
15 when we entered shortly after going in with
16 Detective Romero in the apartment, but I didn't do the
17 recovery of the items.

18 THE COURT: Recovery, meaning pick it up
19 and vouchering it?

20 THE WITNESS: That is correct.

21 THE COURT: Finding means what, seeing it
22 or what?

23 Q. Detective Romero, he is the arresting officer
24 in this case; is that correct?

25 A. That is correct.

HERNANDEZ - VOIR DIRE - DEFENSE

1 Q. With regard to the paperwork, everything is
2 done in Detective Romero's name?

3 A. Ah --

4 Q. Just about?

5 A. Just about, sir.

6 Q. With regard to the property voucher,
7 Detective Romero would be listed as the finder of the
8 property; is that fair to say?

9 A. It can be. Detective Romero as the finder or
10 the actual person who picked it up and secured it for
11 Detective Romero.

12 Q. So with regard to this stuff, do you know if
13 Detective Romero is the person that's listed as the
14 finder of the property?

15 A. I am not too sure. I wouldn't have that
16 voucher. Detective Romero would have prepared that
17 voucher.

18 Q. Correct.

19 So if you were to see that voucher, that
20 would refresh your recollection with regard to
21 Detective Romero being the finder of the property?

22 A. It would refresh your recollection as to --

23 THE COURT: Whoever did. Do you want to
24 show it to him.

25 MR. KEITH: May this be marked

HERNANDEZ - VOIR DIRE - DEFENSE

1 defendant's A for identification.

2 THE COURT: Sure can.

3 (Defendant's Exhibit A was marked for
4 identification.)

5 A. Yes, sir.

6 Q. Romero is the person who vouchered these
7 particular items?

8 A. That is correct, sir.

9 MR. KEITH: Thank you.

10 THE COURT: Any objection to number two
11 now?

12 MR. KEITH: No, Your Honor.

13 THE COURT: Two is received. What's
14 next?

15 CONTINUED DIRECT EXAMINATION BY

16 MR. BERLAND:

17 Q. What does it mean to be designated the
18 arresting officer?

19 A. You are the individual who is basically going
20 down on the paperwork as having made the arrest,
21 documented as the arresting officer. Several officers
22 can assist, but the arresting officer is the official
23 person on record as the person who placed the
24 individual under arrest.

25 Q. There's nothing in the police guidelines that

HERNANDEZ - DIRECT -PEOPLE=

1 says the arresting officer is the only person who could
2 see paraphernalia or drugs in plain view; is that
3 right?

4 A. That is correct, sir.

5 THE COURT: You said seized or see?

6 MR. BERLAND: See.

7 Q. Let's move on to People's Exhibit 3 for
8 identification.

9 MR. BERLAND: I'm showing it to counsel.

10 Q. What are you looking at?

11 A. This is a sealed envelope from the police
12 laboratory which contains an analysis report, an
13 envelope that was utilized by the police department to
14 safeguard narcotics, as well as the security envelope
15 and the narcotics, the cocaine and marijuana that was
16 recovered from the second floor apartment at 451 Lenox
17 Avenue.

18 Q. How do you recognize that to be the cocaine
19 and marijuana recovered from the second floor
20 apartment?

21 A. It has the marijuana and the cocaine, which I
22 recognized, as well as Detective Romero's name and
23 voucher number which was associated with the drugs that
24 were recovered from the second floor apartment.

25 Q. As I asked you regarding People's Exhibit 2 --

HERNANDEZ - DIRECT -PEOPLE

1 withdrawn.

2 Who personally picked up those items from
3 the property clerk's office?

4 A. That would be Detective Romero.

5 Q. And where, again, was the cocaine within
6 People's Exhibit 3 located in the apartment?

7 A. In what is considered the living area, large
8 area of the apartment in the brown wooden box on glass
9 shelves.

10 Q. That would be this wooden box right here in
11 People's Exhibit 2?

12 A. Yes.

13 Q. The bottom one?

14 A. Yes.

15 Q. You also stated, Detective, there was
16 marijuana within that exhibit?

17 A. Yes, sir.

18 Q. Is that the marijuana that was recovered on
19 the table?

20 A. Yes, sir.

21 Q. How do you know that?

22 A. It's listed on the same voucher as the cocaine
23 was listed.

24 MR. BERLAND: I ask that People's
25 Exhibit 3 be moved into evidence.

YVETTE PACHECO SENIOR COURT REPORTER

HERNANDEZ - VOIR DIRE -DEFENSE

1 MR. KEITH: Just a brief voir dire.

2 THE COURT: Sure.

3 VOIR DIRE EXAMINATION BY

4 MR. KEITH:

5 Q. Detective Hernandez, would it be accurate to
6 say that with regards to the items in the exhibit
7 before you, that you do not have an independent
8 recollection of them, that basically you're testifying
9 and using the property voucher to refresh your
10 recollection?

11 A. Both. Would be the type of packaging. I
12 recall type of packaging that was used in items
13 utilized for the items recovered from the second floor
14 apartment as well as the voucher number that's on the
15 lab.

16 Q. With regard to your activities that day, did
17 you generate any paperwork as a result of your
18 involvement?

19 A. A memo book entry.

20 Q. Other than that --

21 A. I think that was it.

22 Q. So you didn't prepare any of the property
23 vouchers?

24 A. No, the property vouchers I definitely
25 assisted in the preparation of them, but not this

HERNANDEZ - VOIR DIRE -DEFENSE

1 (indicating).

2 Q. Is it fair to say that was found by someone
3 else and your testimony is based on your recollection
4 being refreshed by looking at the paperwork?

5 A. That and looking at the items and recognizing
6 the items that were in the brown box on that date.

7 MR. KEITH: Thank you.

8 THE COURT: It's received in evidence.

9 (People's Exhibit 3 was received in
10 evidence.)

11 CONTINUED DIRECT EXAMINATION BY

12 MR. BERLAND:

13 Q. You are about to be handed what was premarked
14 for identification as People's Exhibit 4?

15 THE COURT: What's in there?

16 A. That looks like that came from the apartment
17 on the fourth floor, the door itself to get into the
18 room and keys to the box to the lock.

19 Q. You testified earlier that the keys were
20 recovered from Steven Brown?

21 A. That is correct.

22 Q. Do you know if the keys contained within
23 People's Exhibit 4 was one of the keys recovered from
24 Steven Brown?

25 A. Yes, sir.

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HERNANDEZ - DIRECT - PEOPLE

1 Q. Yes. It was?

2 A. Yes, sir.

3 Q. Do the contents of --

4 THE COURT: Is that what was part of the
5 door on the fourth floor?

6 THE WITNESS: Yes.

7 THE COURT: Any problem with admitting
8 this?

9 MR. KEITH: No.

10 THE COURT: All right.

11 Q. Please take a look at People's Exhibit 3. The
12 cocaine located within that exhibit, can you describe
13 how it's packaged?

14 A. Yes, sir, in a small clear not Ziplocs which
15 would have the ties on the top, but small plastics that
16 are sealed by heat.

17 Q. Can you tell, based on your experience and
18 looking at the small plastic bags the rough weight or
19 how they were packaged? Grams? Half grams? If you
20 can tell.

21 A. They appear to be half grams, but depending on
22 the weight, they could also be grams of cocaine. These
23 size bags are usually \$20 bags being the ones that are
24 in here or half grams.

25 Q. When you say "usually \$20 bags," can you

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1 elaborate for the jury how you come to that conclusion?

2 A. Um, yes. When an individual is going to buy a
3 \$20 bag or purchase a \$20 bag of cocaine, the amount --
4 the specific amount and quantity in the bag can alter a
5 little bit, depending on the operation, depending on
6 how much product is put into it; but, roughly, you're
7 going to get about a half a gram of cocaine for \$20,
8 and they'll package it in a small bag and weigh out
9 about a half of a gram or so in that area and place
10 that and sell it for \$20. Usually, a full gram of
11 cocaine can go for about \$30, \$35. It's gone up
12 significantly since then. When you cut it down, take a
13 gram, cut it in half, you charge \$20. You wouldn't
14 charge the half of 35.

15 THE COURT: Okay, the horse died. Let's
16 go. We are beat the horse to death. Go ahead.

17 Q. Detective, did there come a time while you and
18 your team were executing the warrant on the second
19 floor that you came to learn there was a problem with
20 the second search warrant?

21 A. Yes, sir.

22 MR. KEITH: Objection. Form.

23 THE COURT: He opened on it. I think the
24 jury knows what is coming. I don't think we need
25 to tarry. For some reason, the police decided

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HERNANDEZ - DIRECT - PEOPLE

1 that they were not going to break down a door
2 above the second floor.

3 THE WITNESS: That is correct, sir.

4 Q. Can you please explain why?

5 A. Um, when the field team reached the door on
6 the second floor landing, instead of finding what was
7 supposed to be an apartment or believed was to be an
8 apartment, they found multiple doors to multiple rooms.

9 Q. You just testified behind the second floor
10 door --

11 A. Sorry, going to the third landing. From the
12 second floor going up to the third floor.

13 Q. There came a time that you were informed of
14 this problem?

15 A. Yes, sir.

16 Q. What did you personally do at this time, you
17 and members of your entry team?

18 A. We spoke to the supervisors at the location.
19 We went up. We had people posted upstairs on the --
20 that had went up to look and to safeguard the floors.
21 We went up. I went up with Romero and the supervisors
22 and we took a look at the floors and realized that
23 there was four rooms -- four doors and an open door
24 which was a bathroom on both the -- that floor and a
25 stairwell that led to another floor above that. We

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1 went back downstairs and spoke again to supervisors. We
2 had communications with members of the team that were
3 in the rear security, and after that, after receiving
4 communications from them, I went back up with Detective
5 Romero, and we went to a corner apartment door on the
6 fourth floor to the rear of the building.

7 Q. Before we get to the fourth floor, can you
8 describe can you please what a single occupancy
9 residence see is?

10 A. Usually an apartment door, floor that's cut up
11 into multiple dwellings, but only just one room and
12 they have on that floor or somewhere in the building a
13 common bathroom. In particular with these, one room,
14 with a closet and each floor of the two floors was a
15 bathroom in the middle.

16 Q. Would you characterize the a rooms as single
17 occupancy residences?

18 A. Yes. Just one person would be in that
19 location. It was a tiny room, tiny apartment.

20 Q. One last question before I move to the fourth
21 floor. The four doors on both the third floor and four
22 doors on the fourth floor, how close were they to one
23 another in proximity?

24 A. They were several feet apart, but not a big
25 distance because the rooms for each apartment were

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1 small.

2 Q. So there came a time that you personally went
3 up to the fourth floor; is that right?

4 A. Yes, sir.

5 Q. What information, if any, was provided to lead
6 you up to the fourth floor?

7 A. That the rear security had observed the lines
8 from the monitoring, from the cameras, found where the
9 cameras were placed, they had followed the lines into
10 the second floor apartment, one of the apartments that
11 we were in and that there had been a second line coming
12 from that going into an apartment on the fourth floor
13 in the rear of the building.

14 Q. Did you receive any information regarding any
15 door slamming or people running?

16 A. The field team, when they reached the third
17 floor landing door, indicated that they had heard
18 running and a door slamming above them.

19 Q. "Above them," meaning above the third floor?

20 A. Yes, sir.

21 Q. How many floors did the brownstone have?

22 A. Four.

23 Q. Please tell the members of the jury what
24 happened once you got to the fourth floor room with the
25 wires of cable.

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